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## Legislative Assembly of Ontario

First Session, 36th Parliament

## Assemblée législative de l'Ontario

Première session, 36<sup>e</sup> législature

# Official Report of Debates (Hansard)

Wednesday 15 November 1995

# Journal des débats (Hansard)

Mercredi 15 novembre 1995

**Standing committee on  
regulations and private bills**

**Comité permanent des  
règlements et des projets  
de loi privés**

Organization

Organisation



Chair: Toby Barrett  
Clerk: Lisa Freedman

Président : Toby Barrett  
Greffière : Lisa Freedman



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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
REGULATIONS AND PRIVATE BILLS

Wednesday 15 November 1995

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS  
ET DES PROJETS DE LOI PRIVÉS

Mercredi 15 novembre 1995

*The committee met at 1005 in committee room 1.*

## ELECTION OF CHAIR

**Clerk of the Committee (Ms Lisa Freedman):** Honourable members, it is my duty to call upon you to elect a Chair. Are there any nominations?

**Mr E.J. Douglas Rollins (Quinte):** I would like to nominate Toby Barrett.

**Clerk of the Committee:** Are there any further nominations?

**Mr Gilles Bisson (Cochrane South):** I'd like to nominate Trevor Pettit over there. I think he'd be a great Chair.

**Clerk of the Committee:** Do you accept the nomination?

**Mr Trevor Pettit (Hamilton Mountain):** No, I don't.

**Interjection:** You had to think about it, though.

**Clerk of the Committee:** There being no further nominations, I declare the nominations closed and Mr Barrett elected Chair.

**Interjections:** Hear, hear.

**The Chair (Mr Toby Barrett):** Thank you for the gavel. Thank you for that show of support. I don't know whether that was a squeaker or not.

## ELECTION OF VICE-CHAIR

**The Chair:** The next order of business would be election of Vice-Chair. Honourable members, it is my duty to call upon you to elect a Vice-Chair. Are there any nominations?

**Mr John O'Toole (Durham East):** I'll nominate Bruce Smith.

**The Chair:** Are there any further nominations?

**Mr Bisson:** I want to try Trevor again.

**Mr Derwyn Shea (High Park-Swansea):** I'll vote nominations closed.

**Interjection:** What's the matter, Trevor? They won't support you over there?

**Mr Pettit:** I'll respectfully decline again due to my scheduling.

**The Chair:** Any further nominations? Mr Ruprecht.

**Mr Tony Ruprecht (Parkdale):** Mr Chair, thank you very much for recognizing me. I'd like to propose a motion to have Sandra Papatello as Vice-Chair.

**Interjections.**

**The Chair:** Order. I can't hear. Mr Ruprecht, could you repeat that? I'm sorry.

**Mr Ruprecht:** Mr Chair, thank you for recognizing me, and I see my good friends opposite who I saw last

night at very important public meetings. But having said that, I'd like to propose as Vice-Chair Sandra Papatello.

**The Chair:** There being no further nominations, I declare nominations closed and would ask the clerk to—

**Clerk of the Committee:** The process when there are two nominations is that we will put the name of the first person who was nominated, which is Mr Smith. If Mr Smith receives a majority of the votes, Mr Smith will be Vice-Chair; if not, I'll put the name of the second member nominated, which is Mrs Papatello. If she receives a majority of the votes, she'll then be Vice-Chair.

**Mr Shea:** Wise process.

**The Chair:** All those in favour—

**Mr Gilles Pouliot (Lake Nipigon):** Mr Chair, with respect, good morning. By way of information and so it becomes a matter of record, I understand that there are nominations and they will indeed be in order. It happens, with respect, that I can count and count quite well indeed, and suffice it—I would like to have, if there's a stipend for the Chair or the Vice-Chair in accordance with the members' fees and salaries, that this become a matter of record, because you have a remuneration of so much per annum. I'm asking this by way of question. I want to know how much the Chair and the Vice-Chair will be paid and that it be recorded.

**Clerk of the Committee:** I don't have the exact figures in front of me, but I believe the Chair is paid approximately \$9,000 or \$10,000 and I believe the Vice-Chair is somewhere between \$4,000 and \$5,000.

**Mr Pouliot:** With respect, and by way of a supplementary on that point of order, not good enough; I want the exact number. It's available by pressing a switch. That information should be a matter for public record. We all get the book. I know you're quite busy. Will you please endeavour to do so so it becomes a matter of record?

**Clerk of the Committee:** Before the end of the meeting I'll have the exact figure.

**Mr Pouliot:** Thank you.

**The Chair:** All those in favour of Bruce Smith as Vice-Chair so indicate. Opposed? Mr Smith is elected as Vice-Chair of the standing committee on regulations and private bills. I declare that order of business closed.

## APPOINTMENT OF SUBCOMMITTEE

**The Chair:** The next order of business is a motion concerning the appointment of a business subcommittee. I would ask Mr Bisson to make a motion to that effect.



**Mr Bisson:** I move that a subcommittee on committee business be appointed to meet from time to time at the call of the Chair, or at the request of any member thereof, to consider and report to the committee on the business of the committee; that the presence of all members of the subcommittee is necessary to constitute a meeting; and that the subcommittee be composed of the following members: Mr Barrett as the Chair, Mr Shea, Mr Pouliot—congratulations, sir—and Mrs Papatello; and that any member may designate a substitute member on the subcommittee who is of the same recognized party.

**The Chair:** Is there any discussion on this motion? Hearing none, all those in favour of Mr Bisson's motion? Carried? Opposed? Seeing none, I declare that order of business closed.

1010

## BRIEFING

**The Chair:** Our next order of business on our agenda: It would be appropriate to have a bit of a briefing, certainly speaking for myself, but a briefing for all of us on the committee process. I'm very pleased with the experience of our clerk and I would ask our clerk to present this briefing and perhaps tell us a little bit about yourself and the staff of this committee as well, if you would.

**Clerk of the Committee:** I'd like to welcome everybody to the private bills committee. I see that just about everybody's a new member. I think Mr Ruprecht has been on the committee about as long as I have.

I have clerked this committee for a number of years, starting in 1989, and then other committees and back to this committee. There are a number of staff associated with this committee. On the private bills side, most of that falls within my purview and the staff who assist the committee come from the Ministry of Municipal Affairs, headed by Linda Gray who's sitting at the back. On the regulations side, most of the work is done by legislative research and it's done by Avrum Fenson, who's here today, and Phillip Kaye, who's not with us at the moment. After I finish my briefing, which will take about three or four minutes, I'll turn it over to Avrum to explain the regulations side.

What I put in front of you is standing order 106, which is the terms of reference of the committee, and that outlines both the private bills and the regulations part of the committee. What I'm going to take you through quickly is the flow chart on private bills and what I'm going to do is just tell you how you fit into the process and the information I send to your office and when you can expect to receive it.

Essentially, a private bill pertains to special powers or exemptions from the general law and it originates with an applicant. What happens is that an applicant starts an application in my office. An application consists of five things and they are listed at the bottom of the page.

The first is a copy of the draft bill. The applicants draft this themselves. They can get assistance from legislative counsel. There's a \$150 filing fee for private bills. They must advertise, and you'll notice that the applicant must advertise in both the Ontario Gazette and in a local

newspaper for four weeks. This is so that interested parties know there's a private bill and if they want to comment they can then get in touch with my office.

They have to provide us with a compendium of background information, and that consists of 10 questions and it's contained in a blue book that I send to your office. I have additional copies. Essentially, we want them to summarize what's in the bill and to say if there are any objectors.

They also have to give us the name of the private member who will be sponsoring the bill. This cannot be a cabinet minister nor the Speaker. When people call our office we generally send them to the private member in whose constituency the applicant is situated, so many of you may have already been approached to sponsor private bills.

A difference between private bills and other bills is that these bills are sent to committee after first reading. You'll notice there are bills that have already been sent to this committee. They've been sent here after first reading. You will note that there may be some bills sent off to the Commissioners of Estate Bills, and these have to do with estates. Once they come back, they'll then be sent to the committee.

Once a bill's been introduced for first reading—actually, prior to that, both legislative counsel and the Ministry of Municipal Affairs will have circulated this bill throughout the ministries so that if there are any ministries that are interested in commenting on this bill, they generally contact my office and they will be scheduled to appear before the committee also.

Scheduling is done one week in advance, so this afternoon I will call those applicants who are scheduled for next week. I tend to go with those bills that are ready. Those bills that have been introduced and sit on the order paper now you can expect will be scheduled fairly soon. I guess a number of years ago there didn't seem to be a lot of objectors to the bills, and I think one day—Al Furlong was the Chair—we set a record of eight bills in 24 minutes. Lately there have been a lot of interested parties who want to comment on the bills, so I'll probably be scheduling three or four bills per morning. I tend to schedule the out-of-town applicants first so they won't be bumped over to the next week, so that we can schedule them and send them back home.

The process in committee: On the Friday prior to committee you will receive a file folder with all the information you need for the next Wednesday. That will contain the bills, the compendium, any letters or briefs I have from objectors or other interested parties, and that will be in your office—we try to get it out either late Thursday night or messenger it first thing Friday morning. Occasionally, if we can, we try to send it out earlier on Thursday so those members who leave Thursday night can take it with them for the weekend, but we start contacting the parties on Wednesday and it depends if we're finished with the information or not. That file folder has a big sign on it that says, "Please bring to committee." I bring a couple of extras, but that is all the information you actually need for committee.



The process in committee is, we call the sponsor first, who is the MPP, who may or may not want to speak on the bill. Sometimes they just introduce the applicants. We then ask the applicant to explain the bill. We then have the representative from the government, who is usually the parliamentary assistant to the Minister of Municipal Affairs, give the government position on the bill.

I just want to point out the committee is not bound by any government decision. The committees in the past have followed the government decision or not followed the government decision. It's an independent committee. They can do essentially what they wish.

The Ministry of Municipal Affairs staff will be here. The committee is free to question the parliamentary assistant to the minister or the staff on the government's position. The committee is free to question the applicant, question the sponsor, if they choose.

We will then call for any interested parties. This committee works slightly differently. Interested parties can just show up in the room. They tend to contact my office. We will call those people first and have their names on the agenda, but we will also call out to see if there are any interested parties in the room. Sometimes a committee has to accommodate. A number of years ago we had a bill on hot dog vendors in the city of Toronto and we had the room filled with about 100 hot dog vendors and they all wanted to speak, so we managed to accommodate as many as we could.

There isn't a requirement that we finish these bills in the morning. If the committee has a number of questions and a bill is deferred, then the applicant will have to come back to the committee.

One issue the committee may have to deal with is that a number of these applicants are from ridings that are fairly far away from Queen's Park and some of their bills are quite simple, so the applicant may ask that they not appear.

It's always been the committee's position that the applicant has to appear. They have made a couple of exceptions. One was an applicant from Kenora, and it was a bill that past bills had gone through in about three or four seconds. What the committee decided is that they would not have the applicant but if there were any questions we would have to bring in the applicant in the next week. It's something the subcommittee may want to decide in terms of coming up with a policy on the applicants.

The committee, after the public hearings, immediately goes into clause-by-clause consideration of the bill. We either pass or defeat the bill and it gets sent back to the House and sits on the order paper for second and third readings.

What I'm going to do now is pass it on to Avrum to explain the regulations side. Then I'll take any questions.

**Mr Avrum Fenson:** One of this committee's duties and powers under standing order 106 is to review regulations that are made, after they are made and published, and to report back to the Legislature if there are any flaws in their making or excesses of exercise of authority.

The standing orders specify the terms of the committee's review. Among the things the committee is to report on are regulations which are made beyond the strict terms of the statute which creates the power in some body or individual to make the regulations. The committee is to report if a regulation appears, without any particular authority, to be retrospective in effect. Regulations are not supposed to impose a fine. They're not supposed to shift an onus of proof on individuals. They're not supposed to initiate new policy. These are important issues for which this is the final review and safeguard within the walls of the Legislature. After that, it's up to the courts to deal with.

Regulations are a form of law, but they're a form of law that doesn't go through the normal procedures of the House. It's not created by the House or its committees. It's created under the authority contained in a statute which says that the minister or a particular director of a program or cabinet shall make a regulation on such and such a topic. This form of legislation is known as delegated legislation, sometimes executive legislation. Because it doesn't have the ordinary controls, the review by this committee is especially important.

Why is there a category of delegated legislation? The reason is that statutes to some extent have to be drafted in generic ways. The Retail Sales Tax Act can't anticipate every kind of object which might be subject to sales tax, so the minister is given power to designate kinds of things which come under different provisions of the act or to exempt certain things. The Health Protection and Promotion Act can't anticipate every outbreak of rabies, so authorities are given power to make regulations requiring animals in a certain district health unit to be immunized upon a certain date.

#### 1020

It has to do with the bread-and-butter detail of the administration of the province. So, for practical purposes, legislative power is given by the statute in a limited and specified way to ministries and cabinet, and taken away from the hands of the Legislature as a whole. But the safeguard is, among other things, the review which this committee is responsible for.

The review has always been conducted on behalf of the committee by lawyers, either outside counsel or, in recent years, lawyers from the legislative research service. What we do at the legislative research service is read every regulation as it comes out, read it as against the provision in all the statute which says that such-and-such a regulation can be made and make inquiries of the ministry involved if there are any ambiguities. Then, should we find that there may be a violation of one of the guidelines, we say so in a draft report which we present to the committee. The committee then reviews it and, with or without amendments, tables it with the Legislature. That is how the committee reports these problems to the Legislative Assembly.

There are something in the order of 700 regulations a year made under different statutes. Many of them are simply brief amendments to already existing regulations; others are very substantial things. For example, the OHIP



fee schedule is a regulation. The long tables of drugs and the prices allowed to be paid for them by the province are regulations. Regulations sometimes will exempt people or activities from a statute. They can have very significant effect.

Typically, just to give you a round number, of the 700 or so regulations made a year, we report or we suggest reporting anywhere between 10 and 30. A lot of them are very small; one might call them technical violations. Some of them we consider to be more substantial. But that is reviewed by the committee when we present draft reports.

Our last report, the third report of 1994, covered regulations through the first 100 or 200 regulations in 1994, and the next report will cover all the regulations up to the first few months of 1995. That will be coming in the coming months; I don't know exactly when it will be brought to the committee.

One thing I should say is that the mandate of this committee is to review regulations only after they are actually made. This committee cannot disallow regulations; what it can do is report potential violations to the Legislature under standing order 106, with the hope and expectation that the ministries in charge will redraft them.

**Clerk of the Committee:** I just have the answer to Mr Pouliot's original question on the additional moneys paid to a Chair and Vice-Chair, effective June 14, 1993, until March 31, 1996. For a Chair of a standing or select committee, \$8,592; for a Vice-Chair of a standing or select committee, \$5,171. In addition, the Chair is paid an allowance of \$88 each day and every other committee member \$76 for each day that the committee meets when the House is not sitting. This committee does not usually meet when the House is not sitting, but it has met in the past.

**Mr Pouliot:** Thank you most kindly.

**Mr Peter Kormos (Welland-Thorold):** One further, please: Are these taxable or non-taxable stipends?

**Clerk of the Committee:** I think you'd have to speak to your accountant about that.

**Mr Kormos:** Well no, they're identified, I think, in there.

*Interjections.*

**Mr Pouliot:** We're addressing the question to the Chair, if you please.

**Mr Kormos:** We know that the daily stipends aren't taxable.

**Clerk of the Committee:** The best answer I can give you, and I can provide you with a copy of this book, is all indemnity payments are subject to deductions for income tax.

**Mr Shea:** Excellent.

**The Chair:** We've had our briefing. I would entertain questions for either Ms Freedman or Mr Fenson. Any questions on that briefing?

**Mr Shea:** This goes back some time ago and I want to raise the question again. The province being very large, we can have applications in from Fort Frances,

Kenora, Sioux Lookout, whatever. Has the committee got a track record of indeed allowing applicants to communicate with this committee by television?

**Clerk of the Committee:** No, there isn't. In the last Parliament we started to research with broadcast and recording teleconferencing, and it is my understand that there are facilities available to teleconference. We have yet to do it with any committee, although we have telephone-conferenced people from provincial penitentiaries and institutions. They have teleconferenced into various committees.

**Mr Shea:** Chairman, would it be in order to in fact ask the clerk if they could in fact give this further consideration and advise the Chair and bring the possibility of an extension of that back to the committee for some consideration?

**The Chair:** Yes. Should we put that under "Other Business"?

**Mr Shea:** Wherever you'd like to put it, just as long as we get at it somewhere. I think it's worth looking at that at least for some investigation.

**Mr Bisson:** Are you putting forward a motion?

**Mr Shea:** I'm asking for the Chair's guidance, whether they want a motion or whether the clerk wants to just take that under advisement.

**Mr Bisson:** It would be in order if you made a motion.

**Mr Shea:** I'm happy to make it as a motion that the clerk in fact report to the committee.

**The Chair:** Perhaps under this agenda it's been suggested we may put that under the business subcommittee for discussion and bring it back to the full committee.

**Mr Shea:** That's fine. I'm happy to do that. I'm happy to be guided that way. I'm just as happy also to have the report and just give some thought to it. It speeds it up, I think, Chairman, unless somebody thinks we shouldn't have—

**The Chair:** Okay, Mr Hastings. I'm sorry, discussion?

**Mr Bisson:** Have you called for discussion on the motion yet?

**The Chair:** There may perhaps be a motion after the subcommittee—

**Mr Bisson:** Oh, okay.

**Mr John Hastings (Etobicoke-Rexdale):** What I'd like to request the business subcommittee to look at is the cost of regulations. I'd like to see some kind of a report out from legislative research services as to what it costs to analyse, scrutinize some of these regs from different types of statutes, how much time it takes, that sort of thing, so maybe half a page or a page.

**Mr Fenson:** You mean the cost of this committee's review of regulations?

**Mr Hastings:** Yes, as to different types of acts that have come before this committee in the past. Some of them would be much more—

**Mr Fenson:** Or the cost of administration?

**Mr Hastings:** Both.



**Mr Fenson:** I'd be glad to do that. I should say, though, that it's specifically provided in the standing orders that it's not within the purview of this committee to deal with policy matters contained in regulations.

**Mr Hastings:** But there is nothing wrong with asking for information in terms of that.

**Mr Fenson:** Oh no, not at all.

**The Chair:** Further questions from our briefings?

**Mr Dave Boushy (Sarnia):** My city council passed a resolution for private bills almost a year ago. Where does it stand now? Could you just review? I haven't heard anything about it.

**Clerk of the Committee:** What we do in our office is, currently we have 44 active files in our office, from any time. Some of these files have been in the office for a number of years because the applicant, for one reason or another, isn't ready. At any given time you can contact me in my office and I can tell you exactly what the status is of any bill. So I can talk to you after the meeting. I have a list here and I can tell you what the current status is of the bill that you're interested in.

**Mr Boushy:** I take it that has been submitted?

**Clerk of the Committee:** I would have to find out the name of the bill and check on the list, and I can do that after the meeting.

**Mr Bisson:** I just have a bit of a question for the member opposite in regard to the cost of regulation. Just so that we're clear what you're directing the research to do here, what's the intent of what you're looking at?

**Mr Hastings:** I want to find out for specific reasons how much it costs to administer a regulation, say that City of Toronto Act regarding the hot dog vendors. I'm just curious as to what the cost of administering regulations is.

**Mr Bisson:** Is it the cost of the regulation or the cost of administration?

**Mr Hastings:** I said both.

1030

**Mr Bisson:** I thought he said both. Thank you. Just so that we're clear, you're asking, how much is it going to cost to enact the various regulations that come before this committee, and the second request is, how much does it actually cost to do that?

**Mr Hastings:** If you were carefully listening, Mr Bisson—

**Mr Bisson:** I am.

**Mr Hastings:** —what I was requesting from counsel is an example of a previous act that a previous committee dealt with, and the hot dog vendor thing could be the example, of how much it cost to do the actual scrutinizing and analysis of that reg, or regs, for that act. So that would be the cost of administration in terms of the legal administration of the regulation.

**Mr Bisson:** Very good. I'll send the Hansard to your minister.

**Mr Pettit:** The clerk indicated that this committee does not normally meet when the House is not sitting. I'm wondering why that is, and secondly, if that's the

case, does that mean at best, assuming we have business to attend to before Christmas, we get roughly four to five meetings in before Christmas and then nothing till April or late March? I'm just curious as to why that is. It seems that that's very limited, within a seven-month or six-month time frame.

**Clerk of the Committee:** There are a number of reasons. First of all, in terms of sitting when the House is not sitting, it's up to the committee to request time from the House leaders and whips' offices and this committee in the past has chosen not to request time. That may be for a number of reasons. There may not have been a number of outstanding bills.

Secondly, if this committee does consider bills in the recess, those bills still have to sit and wait for second and third reading. So even if the committee were to pass it in the recess, it doesn't necessarily speed up the process for the applicant because the House must come back still and pass these bills on for second and third reading. But if this committee chooses to sit during the recess, it would just put in a request to the House leaders and whips.

**Mr Pettit:** So that wouldn't normally be the case with the other committees then. It's something for this committee. Is that it?

**Clerk of the Committee:** All of the committees request and then the House leaders and whips of all three parties get together and decide which committees will sit and for which period of time.

**The Chair:** Further questions?

**Mr Ruprecht:** Other business.

**The Chair:** Yes, I'll come to that in a second. I want to thank Mr Fenson and Ms Freedman. Ms Freedman mentioned she's been with this committee since 1989 and also is deputy clerk of committees, and I understand you chose to come back to this committee. I think we're going to reap the benefits of that.

I also wish to acknowledge that, as I understand, Mr Ruprecht has been a member since 1989, and as the senior member here, I think we'll be looking to you for your advice. Do you have any comments at this time before we go to other business?

**Mr Ruprecht:** I certainly have a comment to make, Mr Chair, and I appreciate your recognizing me. This has to do with the Vice-Chair and I'm wondering whether you want to do this now or you want to wait for other business. But thank you very much for your—

**The Chair:** Any other business? I declare that order of business closed.

**Mr Bisson:** We haven't got to other business yet.

**The Chair:** I know I haven't. The next order of business is other business.

**Mr Ruprecht:** I'm somewhat saddened today when you made the decision that the Vice-Chair is from the same party, the Progressive Conservative Party of Ontario. Normally what happens at these committees, there is sort of a generosity of spirit and some understanding between the parties that the Vice-Chair is from another party. The reason is almost obvious, and that is that this makes for much better cooperation. All of us



know there are enough issues that we confront each other on without having to go to committee not showing this generosity of spirit.

Now, Mr Smith is a very capable person, from what I've heard, and I know a bit about his background. There's nothing here that is slighted against him under any circumstances. But the point surely must be made that as we have had this understanding in the past, I'm wondering whether for \$5,171 it's worth it to have it all within one party.

I'm wondering whether—Mr Chair, I'm leaving it with you, and probably with other speakers of the party—we can come to some kind of accommodation on this. Otherwise, it just makes for poor politics.

**The Chair:** Are there other comments on this?

**Mr Shea:** I can only assume that there may be some communications breakdown with my colleague's House leader, because in fact there has been considerable discussion in the past about this and I don't think there's any great surprise. So I'm a little perplexed by the comments, although I'm aware of the sensitivities that Mr Ruprecht expresses.

**The Chair:** Any other comments? Mr North? Mr Kormos, sorry.

**Mr Bisson:** North?

**The Chair:** That's my neighbour to the west.

**Mr Kormos:** Mr Chair, that was the first stupid thing you've done.

**The Chair:** And I didn't know you were on this committee. I'm sorry.

**Mr Kormos:** There's an old joke about three chances. No, Peter North was the one who wanted to be a Tory.

**The Chair:** Welcome to the committee. You're a visitor? I'm sorry, I didn't have your name.

**Mr Kormos:** That's okay. I think Mr Ruprecht's comments are extremely valid. He spoke about generosity, and I think it's not a matter of generosity on the part of the government, because the opposition parties have always been eager to share the responsibilities of chairing by having one of their members put their name forward as a candidate for Vice-Chair.

Obviously, people canvassed with the clerk the matter of stipends that are paid for the two positions of Chair and Vice-Chair respectively, as well as of course the presence of a per diem for a Chair, and I don't know whether that applies to a Vice-Chair or not. I'm extremely troubled by the impression that might be left with the public, with voters, with taxpayers, that the eagerness to not only assume the position of Chair but to monopolize the role of Vice-Chair on the part of the government would be so that government backbenchers could be the beneficiaries of a stipend.

To boot, in this day and age, in the context of what's happened in terms of some very—no two ways about it—serious cutting since June 8, there being a clear message to all Ontarians that people have to do more with less—I think that's the phrase. In view of the fact that one is a Chair by virtue of being appointed to the committee and one has to be here in any event, clearly Mr Ruprecht

articulates—and I think there's some consensus among the six opposition members present—that the position of Vice-Chair would be assumed by opposition members, and surely the motive for that is not because of the stipend but because of the eagerness to participate, the eagerness to share in the process, the eagerness to—again, because Mr Ruprecht spoke of how this facilitates communication, how this facilitates cooperation.

I think it would be behooving one of my colleagues, Mr Pouliot or Mr Bisson, to move, because this committee has the power to control its own process. That's inherent. But I think it would be befitting them to move that in this committee the Chair and Vice-Chair serve without stipend and that the members of the committee waive any per diem.

1040

**Mr O'Toole:** Just in response, in my respect on this committee, I'm understanding that Mr Bisson and Mr Kormos are asking the question if they can share in the benefits of one of those positions. The money, is that really what they want?

**Mr Bisson:** No, we can clarify—

**Mr O'Toole:** Just a point of clarification, is it the money they want or is it that they want the power? I mean, if it's the power, then that's obviously decided in the election process; if it's the money, I think the motives are, in themselves, self-criticism.

I'd like to make the point that the government has business to do, and I think that there are 82 members, there are fewer cabinet positions, fewer parliamentary assistants and fewer staff positions with the PC Party than there ever have been in this province. So, many members of caucus, indeed myself a backbencher, have no positions of any external remuneration. You're going to have five years of less and less remuneration, in my view. When the parliamentary committee reviews the remuneration for members, it may very well be that the committee work shouldn't be remunerated. That's a decision to be made, I guess. But for the moment there are 82 members, and I think it's appropriate that our party occupy those positions that have execute of some powers.

**The Chair:** Mr Pouliot, you had your hand up first, I think, of the three.

**Mr Pouliot:** I find it somewhat difficult—and I will try to avoid being repetitious; all the repetition need not apply. What we have here is a difficult situation. There isn't a day that goes by where we're not reminded—always with passion, sometimes with vengeance because the opposition were the last two successive governments—that we live in difficult times, and we do. We have to reconcile the balance in the context of a budget. Therefore, I do, humbly, find it commonsensical that the Chair of the committee, that the Vice-Chair of the committee waive their stipend; that all committee members also waive the supplementary allocation by way of a per diem.

You do preach a good line. It's time to walk that line, that you don't get paid supplementary for doing a job that a parliamentarian is to do in any event. I mean, we recall vividly, in fact as if it were yesterday, the kind of advocacy that you conveyed to the electorate in the



province of Ontario, that this government, you, was to bring to Queen's Park a breath of fresh air. A cynic, being in the know vis-à-vis the supplementary, the stipend, would say, "No sooner do they get elected than we find them at the trough."

I find it, to say the least, offensive and inconsistent that the very same people who preach austerity, that we're to be different, would waive the opportunity to do exactly that. Surely the campaign was not a big lie. People believed, and they sent you here. It's not very consequential. Most people are consequential in terms of means, and surely it sends a message out that the mere bagatelle of \$8,000 or \$5,000, although very important for members of this House because we are people of moderate means, but members on the other side could waive that pourboire, that we can tip that gratuity.

I wish I could move, if it were in order, that there is no such thing as a stipend for a job that you're paid to do anyway, be it the Chair, Vice-Chair. When the House isn't sitting, if you're a member of this committee, when the province calls for your service as an elected member to do what you should do, you don't question how much it pays. You don't recount and take a few dollars more. You just go. That's what you do as an elected representative. You don't question or discuss anything extra.

I wish I could move that all those stipends be waived. I find it, especially nowadays, in this day and age when constraints and restraints are the order of the day, do the honourable thing, don't accept the handout if you're Chair, Vice-Chair or a member of this committee.

**The Chair:** Before I go to Mr Sergio, Mr Bisson called out a suggestion. I know nine hands have gone up. Is it the pleasure of the committee or is it the accepted practice to rotate, third party, opposition, government? Is that—

**Mr Bisson:** Exactly. Rotate by party is the best way. Otherwise it's difficult—I sympathize with the government members; it's very difficult for the government members to speak.

**The Chair:** Is that acceptable to everybody? It sounds like that's the accepted practice. Okay. I might ask—

**Mr O'Toole:** On a point of order, Mr Chair: I recognize that is the procedure of the House, and I sit there every day and listen to the members speak because there are only so few of them. My point is, in this committee I don't particularly support the view that they would end up speaking twice for every person's single time over here. I think it should be one side, the other side, and that's—I don't know if that's proper, I would like a ruling on that point.

**Mr Bisson:** On a point of order, Mr Chair: To the members of the government side, it has long been the practice of committees in order to rotate speaking by party, it's the way it's always been done. I sat on the government side at committees for years. That's just the way it works.

**Mr O'Toole:** Is that the requirement?

**Mr Pouliot:** There are some regulations. You just can't goose-step. There is a rotation that's been established since Confederation; it's the orders of the day.

**The Chair:** I might ask Mr Ruprecht's advice on this.

**Mr Kormos:** Give him your best.

**Mr Ruprecht:** We've had this process in place for years, since I joined the committee, and I think that's the way we should continue. But if you want to entertain a motion, I'm not sure that would be in the interests of your party or in the interests of democracy. I would caution you that if you want to make a motion like that, it would only backfire. I'm saying this to you: If you do it, you're going to be standing out there as the person who is trying to cut back. I advise you not to do that.

**Mr Pouliot:** Don't do that.

**Mr O'Toole:** I never made any—there are six there and there are six here, and obviously you could speak twice to our once. It's that simple.

**The Chair:** Let's go back to the first agenda.

**Mr Shea:** Are we still speaking—

**Mr Hastings:** I had my name—

**Mr Bisson:** Mr Chair, just for the sake of cooperation, let them have their turn, to the Liberals, back to us. That way we will just move it along. Let's go.

**Mr Pouliot:** If you're to ask, I can't believe—let's start the rules. I've only been here 11 years, it's not the end of the world. It's obvious that I'm not privy to all the protocol, be it Robarts or Bourinot, but I'm enough of a disrupter when the time calls because I'm constantly provoked by all sides of the House, my own party included, but I know how to stay alive.

With respect to John, I like what he's saying and it would make common sense that you would have an allocation by number. That would be the ultimate in democracy. Unfortunately—and I say this to protect all of us on the committee—that's not the way it works. If we entertain such a motion, it's a matter of intent. Note I didn't move about the waiving, I spoke to the subject matter.

1050

With respect again, Mr O'Toole, first of all, it will be out of order. The second thing that would happen is you would have a mutiny on committees and it would spread to other committees, standing and select committees. There is a rotation. There is a time allocation, and that's been around for as long as we've been sitting.

But the point is well made. I take the point; it's commonsensical. There are so many of us and so many of them, and it seems to be so apparent, but it's not always a monopoly. People will not be like this. People will not be as long. The clock will kill each and every one of us, and help each and every one of us. Otherwise the committees, which are supposed to be non-partisan—but we know better. We know the way constitutional monarchy works, even through committees. The clock will take care of itself.

So I would ask that the comments be recorded as just that, with the benevolence of Mr O'Toole, that they are comments, the point is well taken, as opposed to putting us into a quagmire, a committee of the black hole, to decide whether a motion is valid or not.



**The Chair:** Let's end the discussion on Mr Bisson's suggestion. I would like to go to Mr Sergio, and this is back to the original agenda with respect to Chair and Vice-Chair.

**Mr Mario Sergio (Yorkview):** A couple of points, Mr Chairman, but I want to touch on this discussion as well. It is not the fault of this side of the committee room if we are only so few; it is the fault of the government to have so many members on the other side as well. It is their choice. So you have to accept, the way we accept the result of last election. It is the government that has put so many members on the other side. So if you wish to have more chances, then make a request to have less members on the other side of the committee room.

So that's for that.

*Interjections.*

**Mr Sergio:** With all due respect, Mr Chairman, you can't have it both ways. Come on.

**Mr Kormos:** On a point of order, Mr Chairman—one moment, Mr Sergio—I'm trying to listen to what this member of the committee is trying to say. Will the Chair please control the gaggle of members on the other side. I can't hear what he's saying. And if I can't hear what he's saying, then I feel compelled to ask him to repeat it.

**Mr Shea:** Mr Chairman, can I raise a point of order. I'm trying to hear what Mr Sergio is saying and there are interruptions here, and I know that my good friend Mr Kormos has to leave. Can we get down to business and hear what Mr Sergio has to say.

**Mr Sergio:** Going on the order of business of the day—and I hope this is now the beginning of better things to come on this committee. I do intend that we have our contribution very effectively, Mr Chairman, and leave some of the things aside.

I think it is not fair to bring the result of the last election on the merits of this committee, with all due respect. I believe, and I want to be fair on both sides, that we were advised by our own whip how the Chairman and Vice-Chairman were going to be decided, so it does not come as a surprise to me or members of this House here. We expected, as it was said, that some benign suggestion could have come from the government side itself, although we are well aware of the direction the government is taking, not only on this particular issue but we have seen with other committees as well. They have preselected on their own, they have predecided who the Chairman and Vice-Chairman were going to be, so this does not come as a surprise to me.

What comes as a surprise to me is the fact that all along we have heard from the now Premier that serious consideration was to be given to eliminate all gratuities for members, chairmen and deputy chairmen. I'm asking the Chairman today if this has already been decided and if it is the affirmative policy of the government to continue to pay gratuities to members, deputies and chairmen of the various committees. I would appreciate if the Chair can answer that, or if you can find out for us, Mr Chairman.

**The Chair:** Okay. Mr Hastings.

**Mr Hastings:** I'll be brief. It's so interesting to hear the comments of the members of the opposition regarding this whole issue of MPP compensation. There's a certain hollowness about it in a way, though, because if they're really concerned about the whole issue of MPP compensation, indemnities or whatever you want to call it, before committees, I think it's important that the public record show—a clarification may be in order on my next remark—that the committee met about 18 times. Most of the time it met while the House was in session. There weren't any indemnities in addition to what the Chairman or Vice-Chairman received.

But aside from that particular consideration as to the actual number of times they met, whether it was in session or outside of the House sitting, I think the Finance minister or the government has appointed a commission on MPP compensation. As far as I know, and I could be wrong, the NDP members haven't made any submission as to what their overall strategy or position is on that. If they have, then I will be most interested in hearing about it or reading about it when and if they do.

The other thing is that if this issue was such a great, grave item of public business before today, then they had the opportunity back for the last five years—correct me if I'm wrong, again—to rectify this practice of whatever amounts of indemnities in addition to the regular amounts were received by members in the House. So, to me, they had the opportunity. Why didn't they correct it back in those days, and we could get on with what are the items of business, if there are any, on other items?

As far as I'm concerned, there is a certain hollowness in the ring about this whole thing. The portrayal that certain members are or aren't getting rewarded I find rather insulting in a way, that it's brought up in that context.

**Mr Kormos:** Let the revolution begin. The voters of this province were fed the line of the revolution for several weeks prior to June 8. There was a strong message from the now Premier and from every Tory candidate in Ontario, 130 ridings, that this government was going to be different, that this government was going to show fiscal restraint, that this Tory revolutionary government was going to demonstrate to the people of Ontario that government will no longer be the way it has been.

Yet what have we already? This porcine race to the trough, when there's an opportunity on the part of those same people who declared themselves revolutionaries to in effect make a revolution. Now we see them retreating. Are they revolutionaries? No, I think they're counter-revolutionaries. In fact, it's more of the same old stuff. It's more pigs at the trough, eager to monopolize those positions which generate extra stipends.

**Mr Pettit:** On a point of order, Mr Chair: I think the "pigs at the trough" label would, in my view, be somewhat unparliamentary. I don't know that this applies in the committee.

**Mr Kormos:** Chair, why didn't he stop me at "porcine"?

**Mr Pettit:** I would ask that the member withdraw that. Also, when he says that, he should be aware that at



least in the social development committee, both the Chair and the Vice-Chair are Liberals. So I would suppose that they're at the trough too, as he suggests.

**Mr Kormos:** Trust me, Chair, I'll be hitting those committees too.

**The Chair:** Mr Pettit, I apologize. I didn't—

**Mr Pettit:** I was just suggesting that this "pigs at the trough" label is somewhat unparliamentary.

**The Chair:** I actually didn't hear the "pigs at the trough" because—Mr Kormos?

**Mr Pettit:** He said the pigs were racing to the trough, and I guess he applies that to the opposition parties.

1100

**Mr Kormos:** A mere porcine gathering at the food table.

**Mr Pettit:** I'd also like to—

**Mr Kormos:** Chair, the important thing, though, is that you want to talk about accepting the responsibilities of Chair and Vice-Chair because of your eagerness to serve—

*Interjections.*

**The Chair:** Order, please. Mr Kormos has the floor.

**Mr Kormos:** Thank you, Chair. Or are you there because it provides an \$8,592 perk, bonus, in the instance of Chair, and a \$5,171 bonus in the instance of Vice-Chair? Is this the rationale for monopolizing these two positions by government members, or is it a true eagerness to serve? In this province the government is telling a single person who is in receipt of social service benefits to live on some \$90 and change a month for food purchases. You're telling communities to live with less. You're telling people that there's no money in the account, that the cheques are going to be NSF in short order.

Here is your opportunity, Chair, as a member of the Mike Harris Tory caucus, to waive your stipend, to waive this perk of \$8,592 a year above and beyond your indemnity as a member of provincial Parliament, as an MLA, and to demonstrate that you say what you mean and you mean what you say. Otherwise the words are hollow and otherwise it's a mere exercise in the most cynical hypocrisy.

**The Chair:** Mr Ruprecht is not present and—

**Mr Shea:** Which follows in the tradition of the last five, 10 years.

**Mr Bisson:** This is now.

**Mr Shea:** Oh, of course. On a point of order, Mr Chairman: Could you ask the clerk—a clarification of the rules for me, please. Are members entitled to speak as many times as they wish on each item? I just want to make sure I'm clear about that. So in rotation, will you advise the number of times a person can speak and if there are any time limits on each person?

**The Chair:** Time and number of times.

**Clerk of the Committee:** The standing order on committees states essentially that there is no limit on the length or the time that members speak in committee.

**Mr Shea:** That's fine, very good.

**Clerk of the Committee:** And in terms of who speaks, it's whoever the Chair recognizes.

**Mr Shea:** I understand the rules well. Thank you so much. What goes around, comes around.

**Mr Sergio:** Have we decided on rotation then under the rules, Mr Chairman?

**The Chair:** I think that's the assumption, yes.

**Mr Boushy:** Mr Chairman, I was sitting back here and listening. The only reason that you and I are here is to serve the public. We've spent over one hour now discussing things that maybe we shouldn't have been discussing. Now I've got a lot of work in my office. I could serve the public better than sitting here and discussing something that—for example, the NDP last year or the year before had the chance to implement what my friends are talking about. They never did.

It seems to me all we want to do is just waste time. I think I've got better things to do than sitting here just wasting time. I'm sorry. We are here to serve the public. We are here to cooperate with each other and discuss the problems of business, not to object to everything for the sake of objection. We have enough of that in the House. I am surprised that this has continued to be in the committee level.

**Mr Pouliot:** We put up with your garbage for five years and I had four ministries, so I have no lessons to take from you.

**Mr Bisson:** There are two or three points that I'd like to speak on. The first one is the whole notion of what the opposition is all about. It's been suggested here by a number of members from the government just lately that we're discussing a bunch of uninteresting matters to the public and that we're wasting the time of the public.

I think that is an ill-advised comment, at the very least. Every member of this assembly gets elected on his or her merit and their willingness to be able to serve the public. We do that to the best of our ability and we come to the committees, we come to the Legislature, in order to do that.

**Mr Boushy:** What have you done right now?

**Mr Bisson:** I listened very patiently to your comments, now listen to mine.

**Mr Boushy:** It's a waste of time.

**Mr Bisson:** How members choose to deport themselves and choose to bring matters forward before committees or the Legislature is not a thing that I think we can impute motive on, on the part of one member or another, depending on what side of the House he or she may stand on.

What really bothered me was the suggestion somehow that we should delineate the rights of the opposition on the basis of the last provincial election, because I've heard that comment two or three times this morning fairly clearly, and I would just want to revisit a little bit of the history of our British parliamentary system.

You would know as well as I, because I'm sure that you're all very learned and that you've taken the time to



read Erskine May and you've taken the time to read Beauchesne's, to talk about what the rules of the House are, the purpose of the British parliamentary system and how it is set up and what it does.

One of the fundamental principles of that system is the role of the opposition. Yes, the government has the right to govern. The government has the right to make laws, provided they have a majority of the people in the House, and we accept that. I accept that there were more Conservatives elected than there was in my party or the Liberals put together. But what I don't accept is the notion somehow that, because we are in the minority position in the House, both the Liberal Party and ourselves, we do not have something to bring to this Legislature and something to bring to these committees.

There's a very serious point that was raised here this morning by Mr Ruprecht. In some committees, it has been the established practice for many years that the Chair comes from the governing party and the Vice-Chair comes from the opposition party. It is not the standard practice across all committees, but it has been done, and I think Mr Ruprecht and others were trying to raise with you, as members new to this assembly—and I don't mean that in disrespect—that there are some certain practices that have happened around here for years, and it is incumbent upon us as members to try to live up to those practices, so that we don't establish practices or precedents that are going to come back to haunt us in the future.

I can tell you, I sat on that side of the House, where I came to this House not as an opposition member but I came first as a government member, and I thought like you at the beginning, "Oh, my God, I'm here, I've got more than all the rest of them, the Tories and Liberals, put together, and somehow that gives me licence, in order to have my views heard more or my rights more protected in this assembly," and I can tell you that's wrong.

Because of the words of your party when you were in opposition and the words of the Liberal Party, I learned that the opposition does have a valued point of view to bring forward, and this House works well when we respect, yes, that the government has a right to govern, but at the same time the opposition has the right to bring forward issues and bring forward points of view that are held within our communities across Ontario so that you can consider those within your caucus, that you can consider those when you're making decisions so that we end up at the end doing what we come here for, which is to represent the people of this province.

So if Mr Ruprecht and Mr Kormos raised the issue of the Vice-Chair, I would like to tell you that has nothing to do with the stipend. Believe me, I sat on committee on the government side and I never collected a stipend, on the side of the committee. I did on the standing committee on Confederation as a new member, because I didn't understand how the rules were, but I made it my practice after the standing committee that I would not collect a stipend when I sat in as Vice-Chair on a committee.

**The Chair:** Mr Shea?

**Mr Bisson:** Hang on, I'm not finished. So be careful about how you do that. As well, our party had made a

decision when we were in government, especially if you were a parliamentary assistant, that you would not collect a double stipend. That you collect a parliamentary assistant's salary and that of a Chair or a Vice-Chair is something we had decided not to do. I accept that the government has a role. They got elected, and one of the things that you ran on was that you were going to bring integrity back into the House. I very much respect that, because I believe, quite frankly, one of the problems we have in our public system is that there is a perceived view by the public that we, the politicians, are somehow dirty and crooked and we should not be trusted. I think it's incumbent upon all of us to lead by example, such as Mr Pouliot said a little while ago, in a very verbose way none the less because he was provoked, and I know my friend to be a very calm individual who does not often lose his temper, and I can understand why he was a little bit hurt by that.

What we are recommending here is simply this, that the Chair be that of the government—we accept that—but the Vice-Chair be that of the opposition, and that the stipend to both of those positions not be paid. We're not asking that the Vice-Chair gets a stipend of \$5,000. We want to be clearly on the record that both of those positions be unpaid, but that the rights of the opposition are recognized in this process and that the Vice-Chair be that of an opposition member. I would support the Liberal name put forward—I think it's Linda whose name was put forward—

**Mrs Sandra Pupatello (Windsor-Sandwich):** Sandra.

**Mr Bisson:** Sandra, sorry. But that clearly the stipend not be paid to either the Vice-Chair or the Chair, that money has nothing to do with this. It's the idea that if you want to work on this committee and you want to be able to work in a cooperative manner, I would suggest it's a darned good idea to have the Vice-Chair from the opposition.

I would move a motion forward that the Chair's position be that of the government as elected and that the stipend not be paid in order to demonstrate to the people of Ontario that we are trying to do things differently here, on all sides of the House, and that the Vice-Chair be that of the opposition, whoever you would select, and that that position be an unpaid position.

1110

**Mr Boushy:** Is the motion in order, Mr Chair?

**The Chair:** We have a motion before this committee, and I would ask that the motion be repeated.

**Mr Bisson:** Yes. I would move that the—

*Interjection.*

**Mr Bisson:** Okay. I'll ask my friend here, my colleague from the—

**Interjection:** To reopen the discussion of the Vice-Chair—

**Mr Pouliot:** Mr Chairman, I—

**The Chair:** Are you reading the motion for Mr Bisson?

**Mr Pouliot:** Yes. I have a motion as follows: I move that the Chair be called upon to waive the stipend for the



position and that the Vice-Chair also be called upon to waive the stipend for the position of Vice-Chair, as well as all members of the committee be called upon to waive the per diem.

*Interjections.*

**Mr Pouliot:** When the House is not sitting, there is a per diem.

**Interjection:** We don't need that.

**Mr Pouliot:** I realize this is the bottom of the food chain when it comes to perks, to extras, and that's why I'm taking the time. You know, time is of the essence. We too are busy. There are fewer of us. We're talking about money; we're talking about principles.

**Mr Bisson:** Could you read that back?

**The Chair:** We have a motion before the floor.

*Interjections.*

**The Chair:** I'm sorry. Mr Bisson has requested the motion be read back.

**Mr Bisson:** Lisa, can you read back the motion?

**Mr Shea:** Is it in order?

**Mr Bisson:** Yes, it is.

**Mr Shea:** I'm asking if the motion is in order.

**The Chair:** Just for clarification—

**Mr Shea:** I understand the motion is out of order, but I want to—

**The Chair:** Let's just clarify the motion first.

**Mr Shea:** Sure.

**Mr Boushy:** Didn't we make a decision on this? Then another motion would be out of order, unless a reconsideration is submitted.

**Mr Kormos:** I trust the Chair's going to explain—at length and in detail.

*Interjections.*

**Clerk of the Committee:** My understanding of the motion is that Mr Pouliot moved that the Chair and Vice-Chair be called upon to waive the additional stipend and that, in addition, all members of the committee not collect any additional stipends.

**Mr Bisson:** And, in addition, that the Vice-Chair's position be reopened and allow it to go to the opposition.

*Interjection.*

**Mr Bisson:** Do we have to do that as two separate motions?

**Interjection:** Yes, okay.

**The Chair:** Now, I understand that this does not require a seconder. The motion is out of order, as the indemnity is legislated by subsection 65(1) of the Legislative Assembly Act and this committee does not have the power to move a motion—

**Mr Shea:** And you know that. Shame on you.

*Interjections.*

**The Chair:** Order, please. I repeat: This committee does not have the power to move a motion to amend legislation. By way of explanation, members may personally choose, if they wish, to accept or not accept their indemnities.

**Mr Bisson:** On a point of order, Mr Chair: I think if you had listened to what we were suggesting in the motion, it is that the Chair be called upon to raise this matter with the government in order to waive. We're not—

**Mr Pouliot:** No, I won't take the money. I won't go to the trough.

**Mr Bisson:** Just go to your House leader and say, like, "We don't want it—"

**Mr Pouliot:** "We don't want the money."

**Mr Bisson:** —and we want you to pull it away."

*Interjections.*

**The Chair:** Mr Bisson, are you finished with the floor?

**Mr Bisson:** Yes.

*Interjections.*

**The Chair:** With respect to this item on our agenda, is there any further business or other business?

**Mr Ruprecht:** Sorry, I was called away for a few minutes. Mr Chair, I'd like to make a motion. I had no idea at the beginning, when I made my original comments, that it would go in that specific direction in terms of taking away stipends, but you never know in this place how it all ends up. I'd like to make a motion, if possible, to have the discussion on the Vice-Chair reopened so that we can propose that a member of the opposition would be able to take that position.

**The Chair:** Is there unanimous consent for this proposal?

**Interjections:** No.

**The Chair:** The nays have it. Any further items of business for this committee?

**Mr Sergio:** Mr Chairman, are there at times recorded votes at this committee?

**The Chair:** I'll ask the clerk.

**Clerk of the Committee:** If any member requests a recorded vote, they must request it before we take the vote. They simply just yell out, "Recorded vote."

**Mr Sergio:** With all due respect, Mr Chairman, I realize that this is the initiation committee, if you will, and I guess we'll—

**Clerk of the Committee:** Just to clarify, also, the last motion by Mr Ruprecht, because we had already finished with the Vice-Chair, in order to reopen the Vice-Chair that required unanimous consent. So it technically wasn't a vote. All that the Chair put before the committee was, "Is there unanimous consent?" Because the Chair heard at least one "No," there was not unanimous consent to reopen. So it wouldn't be something that we would have a recorded vote on anyway.

**Mr Sergio:** But I believe, Madam Clerk and Mr Chairman, that if a member requires to have a recorded vote, a recorded vote can be had at any time even though a prior decision has been made. Am I correct?

**Clerk of the Committee:** A recorded vote can be had at any time as long as it's asked for before the vote. There would not be an opportunity for a recorded vote on



something that would not go to a vote, like a request for unanimous consent. You couldn't have a recorded vote on that because it's technically not a vote; it's just asking the committee if we can open it for a vote.

**Mr Sergio:** Could I request, then, for the sake of having a recorded vote, and since I was not present when this election and the voting on the Vice-Chair and Chairman was taken—

*Interjections.*

**Mr Sergio:** Mr Chairman, with all due respect, I know where we're going to end up unless we have some order. I duly respect the fact that you've just been elected and I would ask every member to assist the Chair, because this isn't going to be an easy committee, as I can see it. I would ask that you rule effectively and control the members, Mr Chairman.

I do wish to move, and I request for the sake of a recorded vote, that the matter of the Chair and Vice-Chair

be reopened, solely for the question of a recorded vote. I'm asking the Chair.

**Mr Ruprecht:** If you make a motion, I will second it.

**The Chair:** Is this a motion?

**Mr Sergio:** Yes, for a recorded vote.

**The Chair:** Is there unanimous consent to reopen?

**Interjections:** No.

**The Chair:** I have no unanimous consent, sir.

**Mr Sergio:** But do we have to have unanimous consent every time, Mr Chairman?

**The Chair:** That's my understanding.

Any further new business for this committee? Is this new business? Because that's over.

**Mr Pettit:** No, I don't think it is. May I? I move that we adjourn.

**The Chair:** All in favour? This meeting is adjourned.

*The committee adjourned at 1120.*







## CONTENTS

Wednesday 15 November 1995

Election of Chair .....	T-1
Election of Vice-Chair .....	T-1
Appointment of subcommittee .....	T-1
Briefing .....	T-2

### STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

- \***Chair / Président:** Barrett, Toby (Norfolk PC)
- \***Vice-Chair / Vice-Président:** Smith, Bruce (Middlesex PC)
- \*Bisson, Gilles (Cochrane South / -Sud ND)
- \*Boushy, Dave (Sarnia PC)
- \*Hastings, John (Etobicoke-Rexdale PC)
- \*O'Toole, John R. (Durham East / -Est PC)
- \*Pettit, Trevor (Hamilton Mountain PC)
- \*Pouliot, Gilles (Lake Nipigon / Lac-Nipigon ND)
- \*Pupatello, Sandra (Windsor-Sandwich L)
- \*Rollins, E. J. Douglas (Quinte PC)
- \*Ruprecht, Tony (Parkdale L)
- \*Sergio, Mario (Yorkview L)
- \*Shea, Derwyn (High Park-Swansea PC)
- \*Sheehan, Frank (Lincoln PC)

*\*In attendance / présents*

**Also taking part / Autres participants et participantes:**

Kormos, Peter (Welland-Thorold ND)

**Clerk / Greffière:** Freedman, Lisa

**Staff / Personnel:**

Fenson, Avrum, research officer, Legislative Research Service



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## Legislative Assembly of Ontario

First Session, 36th Parliament

## Assemblée législative de l'Ontario

Première session, 36<sup>e</sup> législature

# Official Report of Debates (Hansard)

Wednesday 22 November 1995

# Journal des débats (Hansard)

Mercredi 22 novembre 1995

**Standing committee on  
regulations and private bills**

**Comité permanent des  
règlements et des projets  
de loi privés**



Chair: Toby Barrett  
Clerk: Lisa Freedman

Président : Toby Barrett  
Greffière : Lisa Freedman



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## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
REGULATIONS AND PRIVATE BILLSCOMITÉ PERMANENT DES RÈGLEMENTS  
ET DES PROJETS DE LOI PRIVÉS

Wednesday 22 November 1995

Mercredi 22 novembre 1995

*The committee met at 1008 in committee room 1.*

**The Chair (Mr Toby Barrett):** Good morning. Welcome to our standing committee on regulations and private bills, November 22, 1995.

I would draw your attention to the agenda, and there are agenda items on the back of that one sheet as well. This is our first business meeting, following on the organizational meeting last week.

## CITY OF NEPEAN ACT, 1995

Consideration of Bill Pr13, An Act respecting the City of Nepean.

**The Chair:** Our first order of business is Bill Pr13, An Act respecting the City of Nepean. MPP John Baird is sponsoring this bill and I would ask the sponsor and the applicant to step forward and we would ask you to very briefly introduce yourselves, please.

**Mr John R. Baird (Nepean):** Hello. I am, as you know, John Baird, the member for Nepean.

**Ms Nancy Miles:** Nancy Miles. I'm solicitor for the city of Nepean.

**Ms Susan Jones:** I'm Susan Jones, manager, bylaw services for the city of Nepean.

**The Chair:** Thank you. I would ask the sponsor, MPP Baird, any comments on this bill, please?

**Mr Baird:** I'll maybe say just a few words. I'm very pleased, firstly, that the committee is able to consider this bill so early in its mandate, and privileged to be the first two bills to come forward to the committee, and thank all members for that.

It's an honour to bring forward Bill Pr13 for consideration. I have with me representatives from both the legal side of the city of Nepean and from the bylaw enforcement side of the city of Nepean who will give a summary and overview of the legislation.

**Ms Miles:** I'm here to talk about Pr13, first off, and that is a bill which is allowing the Corporation of the City of Nepean to collect fees for inspections carried out in the enforcement of its maintenance and property standards bylaw.

With respect to Nepean, I just want to give you a brief overview. Nepean's an urban municipality on the border of Ottawa. It has about 113,000 residents. It is essentially residential but with a strong industrial and commercial component. It's not too old in terms of its development and as a result Nepean really didn't have a property standards bylaw until 1984, and at that time the property standards bylaw really only dealt with high-density rental dwellings, because those were the areas of greatest need and greatest risk.

By the 1990s this became insufficient and therefore in September 1994 we passed a more comprehensive property standards bylaw. The greatest area of concern was low-rent dwellings that were reaching their design life and were becoming quite run-down. Because of the increased number of complaints, council also directed the city to embark on a city-wide proactive enforcement program.

From September 1994 until September 1995 we have done that and the city has committed more than \$70,000 in resources to the enforcement of the most egregious substandard properties. We're only halfway through the biggest development, just at the notice of violation stage, and of the 700 units, 400 of which are in Nepean, 300 of which straddle on to Ottawa, we've noted 1,500 deficiencies already. So it's a really massive task to get those substandard properties back to standards.

The interesting situation with Nepean is that we share many of these low-rent housing developments with the city of Ottawa. This one in particular, which we are starting off with which is the worst example, is almost evenly split between Ottawa and Nepean. Ottawa has had this special legislation in effect since 1992 and has been able to, once a final order has been granted with respect to the property, fix the deficiencies and if the property owners still won't comply, at that point in time they can go in, reinspect and charge that reinspection back to the property owners as opposed to the constituents at large. So we're not talking about inspections from the first inspection; we're talking about after the final order has been granted.

So we're in a situation where half of the tenants in these housing developments which straddle the border will get the benefit of city of Ottawa special legislation but we cannot deliver that kind of effective enforcement mechanism as well because we're in Nepean and we don't have the special legislation. So that's essentially the purpose of it. We're interested in cost recovery and we're interested in rectifying the deficiency between the city of Ottawa and the city of Nepean.

Those are my main comments with respect to this issue.

**The Chair:** Are there any further comments from the applicant?

**Mr Baird:** I just have maybe one point. The city of Nepean is an extremely well-run municipality. For the last 23 years, it's run with tax increases below the rate of inflation. It's a very financially responsible community, and it wants to deal with these property standards issues,



particularly in the areas where it affects tenants where the buildings are reaching the end of their lifespan without further upgrading.

So it's a real important issue for us, and I think it's sort of demonstrative of the way a fiscally responsible community can deal with the property standards issue without putting that burden on all property taxpayers, and then deal with these issues.

**The Chair:** I would ask for further comments.

**Mr Gilles Pouliot (Lake Nipigon):** Good morning, and thank you for the compliment of your visit in this first instance. It's our first time that we have the pleasure of working together on this committee.

What is the government opinion on what is being proposed here?

**The Chair:** We will go down to the next item. We would ask the parliamentary assistant for any comments on behalf of the province of Ontario.

**Mrs Sandra Papatello (Windsor-Sandwich):** Which item is this on?

**Mr Derwyn Shea (High Park-Swansea):** We're still on the Nepean private bill 13, and the government has no objections to this private bill. It follows a precedent of the city of Ottawa.

**The Chair:** Do you have a supplementary question?

**Mr Pouliot:** Yes, I do have a question in the rotation. I will yield, but I would like to have a question, with respect, directed at counsel vis-à-vis your comments. Are you aware of any objectors or objections for what is being proposed?

**Ms Miles:** No, I'm not aware of any objections. We have received a number of verbal and I believe one written response in support from a tenants' association.

**Mr Pouliot:** I'd like, in a broadly summarized form, I will close, because after next Wednesday, it's highly likely that you will need all the flexibility and the money that you can generate. That's all I have to say on this first bill, Mr Chair, and I thank you.

**The Chair:** Further questions from committee members to either the applicant or the parliamentary assistant?

**Mr John Hastings (Etobicoke-Rexdale):** Yes, to the solicitor, in this wording that you have for recovering all expenses, why have you not thought of including "all reasonable expenses"? Because sometimes what happens is when you have phraseology such as this that is very, very flexible, you get very imaginative bureaucrats that'll think up expenses that would be more than considered by most people as reasonable.

**Ms Miles:** I think the city of Nepean wanted to be as consistent as they possibly could with the city of Ottawa's legislation to ensure that we could be equal across the board. I had not noticed that there were any problems with respect to that in our discussions with the city of Ottawa, and certainly, as a cost recovery approach, we wouldn't be seeking to gain any revenue with respect to it, but just to recover our administrative expenses.

**Mr Hastings:** Is this wording the exact wording in the building standards maintenance bylaw that the city of Ottawa already has on its books?

**Ms Miles:** What section are you looking at?

**Mr Hastings:** With respect to default here, where it says the corporation may recover. Is the wording in the Ottawa building standards legislation pretty closely resembling or exactly resembling what you're proposing here?

**Ms Miles:** It's exactly resembling it. It is a mirror of the City of Ottawa Act, 1993.

**Mr Hastings:** When you talk about cost recovery, coming from local government, I have seen some examples of zealous cost recovery. The costs that go beyond reasonable expenses for that specific set of activities in inspections, what kind of numbers did you have in mind for cost recovery? On each activity, they would pay \$100? Or after three times? Or how were you going to prorate it?

**Ms Jones:** The cost recovery wouldn't be initiated until the order has been issued and has been confirmed. Once the order has been confirmed, we would begin monitoring our costs, and looking at what the city of Ottawa has done, we would be probably charging on an hourly basis, including cost of materials and staff time, and that's what the cost recovery would be. I believe the city of Ottawa, it's around \$90 an hour, and that's what we would probably be looking at in terms of cost recovery, but it wouldn't be to gain revenue; it would just be to recover our costs.

1020

**Mr Baird:** On that, I think probably the hope is that they won't raise any revenue from this, that it will serve as a deterrent for people, to maintain property standards.

**Mr Hastings:** I hope that is the actual outcome down the road, but usually something like this, some people become very imaginative and it can become a sort of beyond cost recovery model. I'm wondering if you would consider, aside from restraint by the individual exercising this responsibility, how you would protect the consumer, in this instance the landlord. Imagine somebody speaking up for them for a change. I know it's very unusual around here because they're all considered villains.

**Mrs Papatello:** You're not a landlord, are you, John?

**Mr Hastings:** No, actually I'm not, Sandra.

**Mr Pouliot:** If you're going to engage in personal comments—

**Mr Hastings:** We were just talking about a general attitude.

**The Chair:** Shall I go on to the next question? Is there a response?

**Ms Miles:** With respect, it would be incumbent on us to exercise restraint, and the city solicitor, to ensure that it was adequately brought to their attention that that would be outside the ambit of the legislation.

**The Chair:** A new question from Mr Ruprecht.

**Mr Tony Ruprecht (Parkdale):** Before I arrived at this illustrious place, as Mr Shea knows, I was on city council and Metro council, so I have some sense of what's going on. But I'm reminded of some of the phone calls I still get. People still don't differentiate between MPPs, MPs, and city councillors and Metro councillors.



What happens is that on one property the owner will, for instance, keep his or her place well maintained. Two doors down is just terrible looking, ill-maintained and in a state of disrepair. The person who has kept his or her place wonderful will get a notice from the city of Toronto in this regard, saying, "You have not placed your garbage out on time," meaning the person puts their garbage out two hours before the actual date, and the person who owns the building two doors down will not get that kind of notice.

There is, as you probably realize, a possibility here—and the reason I'm asking this is for clarification on Mr Hastings's point, really. That is, can you give us an honest-to-goodness example of what has happened there previously? You've got trailer parks in here too; I know this will include trailer parks as well. But what has your experience been?

**Ms Jones:** The experience in Nepean over the past 20 years is it's a beautiful municipality, it's well maintained overall, but what has happened in the last 10 years is—I can think of three areas in Nepean which have multiple units and are managed by a large rental company, where they have over the past 10 years neglected the property and there has been no upkeep. In 1990 we had one group in Leslie Park—I'm not sure if you're aware of it—that got together collectively and formed a tenants' association over the concern of substandard conditions. The property manager had done nothing for maintenance. There were all kinds of problems with respect to getting work done: plumbing, heating, furnaces, things like that.

At the point they collectively called us—and I recall in 1991 I got a call from the head of the tenants' association—"We have 600 complaints for you to look at." We couldn't believe this, because normally we were dealing with between 100 and 200 complaints a year. As a result of that, we had to deploy two of our officers on a full-time basis to spend the next year in there to deal with all the problems. We barely touched the surface, because the bylaw at that point didn't cover the things we needed to cover.

This is why we've needed the new bylaw in place; this is why we're looking for this legislation now. We're spending a lot of time in there. We want to get these properties back up to the standard the community used to enjoy. We have property owners who live in single residential homes in this neighbourhood who can't sell their homes, don't want to live in the neighbourhood because of the effect it's had on their property values, and they are encouraging us to be as proactive as we can to get the property up to a standard that it used to be and should continue to be. I don't know if I've answered your question.

**Mr Ruprecht:** Yes, you certainly have. I'm just wondering, is this a well-known developer throughout Ontario, or is this a local developer?

**Ms Jones:** It's a well-known development now in the region of Ottawa-Carleton. There has been a great deal of media attention against this particular company, and also the tenants who have been in there. There have been racial outbreaks; there have been many tenants just

complaining generally about the conditions. So it has received a great deal of media attention.

**Mr Ruprecht:** Does this developer have other properties across Ontario or in other places?

**Ms Miles:** Certainly the property management company does and is Toronto-based and has various different property management properties.

**Mr Ruprecht:** Did you hear that? Toronto-based. It's disturbing.

**Mr Baird:** Just on this, if I could speak to it as well, I guess the question that has come down is, who pays for this? Do the property owners who are maintaining their properties and the landlords who are maintaining their properties and conforming to the bylaws? Collectively, should they have to pay for those who aren't? I guess there's a view on the costs associated with these people who are delinquent with their responsibilities under the property standards bylaws that they should have to pay for it rather than the community as a whole, that it's simply not fair to ask everyone collectively to pay for those few—very few in our case—which are not fulfilling their responsibilities as property owners.

There are a large number of single-family homes adjacent to one particular townhouse development where, because the townhouses have gone into such disrepair, the property values have fallen there, if they've been able to sell at all. That's a real concern that I'd add to your point as well.

**The Chair:** A new question from Mr Pouliot.

**Mr Pouliot:** I sense and welcome the municipal background of some of my colleagues, and standards—quality-of-life rules and, well, regulations, and at times policies, it matters not whether we believe in the right and freedom, with good wishes, the best success, whether you're a landlord—mind you, I do prefer when I literally translate the term "property owner." It's less of an invitation to provoke.

I see no evidence that a municipality has ever made money at these things, alas. With the least of the free enterprisers, whenever municipalities get involved and send a bill—not whenever, but at times; it's not uncommon, I should say—the recipient of the bill will say, "Well, it's too much," because the mindset has it in many cases that the municipality will offer a service as a way of doing business and consistently, forever, they lose money. Even when they do charge, it's the best bargain around.

Again, the Toronto Press Today, a sign of things to come. We welcome your presence. "Hospitals, schools, municipalities to get more control over spending, raising fees." Not so much spending, raising fees, but give them the tools to defend, and to quote—I appreciate Mr Baird's concern. In the opinion of the third party, humbly so, let's go on with this bill. We thank you for your presence. Good luck to you. Go back home where you belong, where you are more needed.

**Mr Baird:** Are you saying that to me?

**Mr Pouliot:** Not in that tone to anyone.

**Mr Bisson:** If he didn't, I do.



**Mr John O'Toole (Durham East):** Just a couple of reflections. Previously having been a local and regional councillor, I'm kind of familiar—and we in fact did this.

I have a question. In your 1984 bylaw that was initiated, there were no abilities at all to recover any costs?

**Ms Miles:** The 1984 bylaw was not totally done in compliance with the Planning Act and therefore didn't incorporate many of the protections that were there.

**Mr O'Toole:** This is very standard across the province.

**Ms Miles:** Oh, absolutely.

1030

**Mr O'Toole:** Absolutely. It's done in every municipality and I'm surprised you don't have it. But that's first, so that's clear: It's not there already; you need it.

I guess the next thing is, when you're saying it's proactive, that word is used very selectively. Does that mean that you react to complaints, or do you go out looking?

**Ms Miles:** We have had in the past an enforcement policy at the city of Nepean which was reactive, meaning complaints-based, unless—

**Mr O'Toole:** Basically, most municipalities are in the response mode, not the "proactive" mode. That word frightens me. It looks like, "We're going to sort of set this nice Saran Wrap around our community and it's going to look like this." And there are some variances. Whether it's in lawn care or in home care, there are variances of standards. I think you have to look at neighbourhoods that may in one part of town not conform with those standards in another part of town due to income, sociocultural reasons, whatever. So on the "proactive," I'm not happy with the word. To me it's intrusive. It sends the wrong signal. I don't think it disallows you, by striking that word, but it does send to me a confusing signal. So I personally take exception with that word.

I do also respect the difficult task of a bylaw enforcement person having to go out and in fact be the policeman of the community. It's a tough job. And your standards in your own personal life are quite different than those of perhaps the person you're talking to, who is having a dilemma in their life and the eavestrough is hanging off. You know what I'm saying? It's an economic factor.

So good luck to you. Of course, by us endorsing this, you still are as counsel able to fluctuate the schedule and the rigidity of the bylaw itself. They still have control, so I don't have a problem, I guess, in that respect.

I also notice that there is a right of appeal by the owner, a two-week appeal period, which is appropriate. So, in short, I only have some problem with the "proactive." Like, "Let's go and get them. Everybody has to have brick homes," you know, it's not my idea.

**Ms Miles:** Thank you.

**The Chair:** I'd ask for a new question.

**Mr Frank Sheehan (Lincoln):** Just a clarification, if I may. In the background document, on page 17, you talk

about a public response and you use the word "aesthetics." Then over on page 18: "Once the bylaw is in effect, the department intends to monitor complaints that deal only with aesthetics and can't be regulated under the bylaw." What's told to me is you're talking about quality of construction and maintenance of the construction. You're not getting into stuff like telling me what colours can go on, or what finish.

**Ms Miles:** No, absolutely. It's always been Nepean's policy that aesthetics is not an issue that we can govern under a property standards bylaw. We're looking at the big issues. We're talking about roofs, we're talking about furnaces, we're talking about matters of construction.

**Mr Dave Boushy (Sarnia):** Having been a city alderman for many years, I know where Nepean's coming from, and a precedent has been set in Ottawa.

There are two questions I have, for the clerk probably. One, what is the procedure now? I'm willing to make a motion if that's needed at this time to get on with the job. Secondly, is there any other city besides Ottawa that has done this?

**Mr Shea:** I don't think so. My understanding is this will be the second one.

**Mr O'Toole:** Mr Chair, I would beg to differ. The municipality of Clarington definitely does it. They demolish buildings regularly and collect it on taxes. It's the same thing. They've been doing it for years.

**Mr Shea:** You're talking about the property standards?

**Mr O'Toole:** It's empowered under the property standards portion of it. They say the place is in disrepair, it's a vacant building, a developer owns the land and the kids are tearing it down. They just go in and tear it down and put it on a statute.

**The Chair:** Mr Boushy, does that answer your question?

**Interjection:** Under the property standards bylaws.

**Mr Boushy:** That's fine. I would like to have an answer to what is the procedure now to get on with this bill. Do we make a motion to approve or what? I'm willing to do it, whatever—

**The Chair:** I have one more question: Mr Smith?

**Mr Bruce Smith (Middlesex):** I guess my only question was to counsel. Is there any reason or concern or has the city of Ottawa's bylaw been tested or challenged that would cause you concern to marry yourself with a similar document?

**Ms Miles:** Absolutely not. In fact, I don't know that it has actually been used to that great an extent. The key to it is the fact that you have the power. Much like many of the bylaws we have at Nepean, we seek voluntary compliance. In most, if not all, cases we get it. It's just in those very rare cases in which we have a very recalcitrant owner that we would use the testing. Sue, did you want to speak to the city of Ottawa, whether they have any experience?

**Ms Jones:** Just to concur with what Nancy Miles said, I don't think it has been challenged. I don't even think they have charged any fees; it has just been the ability to



let property owners know that they will be charged if they don't comply with the order and that they could face additional charges. It tends to get a lot more compliance with deficiencies that should have been corrected regardless.

**Mr Smith:** I share the same view as Mr Pouliot and Mr Boushy, that perhaps the committee could proceed ahead with dealing with the bill.

**The Chair:** Thank you for the questions and comments. Are members of this committee ready to vote with respect to Bill Pr13, city of Nepean? I understand a procedure we may use will be to vote on several sections in combination.

Shall sections 1 right through to 7 carry? Carried.

Shall the preamble to this bill carry? Carried.

Shall the title of this bill carry? Carried.

Shall the bill in total carry? Carried.

Shall I report this bill to the House? Carried.

I wish to thank the applicants and to thank all parties with respect to this bill.

#### CITY OF NEPEAN ACT, 1995

Consideration of Bill Pr14, An Act respecting the City of Nepean.

**The Chair:** I now wish to move to the next order of business with respect to Bill Pr14, An Act respecting the City of Nepean, sponsor John Baird. I ask Mr Baird and the applicants for this bill to come forward. I think we can dispense with the introductions.

**Mr Baird:** I'll again call on Nancy Miles, the solicitor from the city, to give you an introduction, an overview of Bill Pr14.

**Ms Miles:** All of you have read the compendium, so I'm not going to bore you with the details, but the purpose of this private bill is to enable the city of Nepean to require owners of land to remove garbage and debris and to maintain the lawns, the grass cutting, at a certain height with respect to boulevards abutting their land.

Now, "boulevard" is a defined term within the Municipal Act which relates to the portion of the untravelled highway from the travelled portion to the property line. Therefore, it's the two and a half feet to whatever amount it is that is the untravelled portion of the highway that has been sodded etc.

We have never, ever had a problem with the vast majority of homeowners. They cut their lawn as they cut the rest of their lawn and that's essentially voluntary compliance. We've had a care-of-streets bylaw for 30 years now that has required them to do so. Our legal opinion to the city of Nepean was that while section 308 of the Municipal Act permitted owners to maintain boulevards, it did not give the municipalities sufficient power to require and enforce that requirement. Therefore, to a certain extent, our bylaw has been deficient.

As part of the property standards review, we have incorporated the care of streets and the ability to maintain the boulevards into our comprehensive bylaw and into a care-of-streets provision. What we want to do in this circumstance is once again be able to ensure compliance by having a cost-recovery mechanism if they default so that if the city had to go back and do the grass cutting or,

more likely, the debris and garbage that would accumulate more than the grass cutting, then those things would be cost recovery on the owner of the abutting land.

I wanted to bring to your attention that, once again, this arises from the same issue we've had before as being a property standards issue with respect to the multiple unit residential owner or property management company and those commercial and institutional clients which are not complying. Although the bylaw is comprehensive, we're not essentially worried about the man on John Street or whatever who may not take care of its two-foot strip.

If I can just summarize, the essential concern is cost recovery. We'd like to ensure that the offending property owner is the one who is going to be recovering and shouldering the burden of this, much like in property standards as opposed to the constituents at large.

1040

**Mr Ruprecht:** This is a question and also a comment to you, Mr Chair, and to the rest of the committee. If you check the record over the last five years, we've had city after city, municipality after municipality coming before this committee requesting essentially or requiring "owners of land to remove garbage and debris from the portion of the highway abutting to their land that is not used for vehicular traffic and to cut the grass and weeds on those portions".

I'm wondering, and especially now in terms of efficiency and cost-cutting measures, if this committee can make a recommendation either today, or I'll leave it with you if the committee so desires, to check into this system whereby the city solicitor and city representatives have to come here from Ottawa and Thunder Bay and other beautiful places to visit the city of Toronto, I'm not saying to waste taxpayers' money, but certainly we have these discussions again and again, yet here we find ourselves, especially myself having been on this committee for some time, and nothing's been done and nothing's been accomplished in terms of saving time and certainly taxpayers' money.

I know the counsel has been around for a while, and will be able to testify to my comments. Having said that, Mr Chair and members of the committee, I would hope that when we're finished today or at any other time, we can put our heads together, whenever you decide, Mr Chair and the parliamentary assistant, and make that kind of a decision to figure out a way of how we can save people from coming down here and making the same request over and over again.

**The Chair:** Perhaps our business subcommittee could take a serious look at that. Does that make sense?

I would ask the parliamentary assistant, any comments on behalf of the government?

**Mr Shea:** Let me respond to the last point made by Mr Ruprecht first. First of all, I would be very pleased to carry his comments to the minister. As he knows, the minister is in the process of reviewing the Municipal Act and I would be pleased to ensure that the comments that Mr Ruprecht and other members of this committee make are tabled with the minister for his review; very happy to do that.



In terms of the business before us, the government has no objections, subject to an amendment that the Vice-Chair is going to make and with which, we understand, the applicant is in full agreement. It's more of a technical amendment than anything else about the order of priority of the fees to ensure that they don't sit at the same level as taxes and that they would be collected after mortgages and so forth. It's more of a technical amendment, but not unimportant. With that regard, the government has no objection, subject to the amendment being carried that the Vice-Chair would make.

**The Chair:** I would ask for the first question with respect to Bill Pr14.

**Mr Mario Sergio (Yorkview):** The lands in question, the boulevards: In whose ownership are they?

**Ms Miles:** They would be in the city of Nepean's ownership. It would be the untravelled portion of the highway. Whatever jurisdiction that might be, say the city of Nepean, it would be in their ownership.

**Mr Sergio:** I don't know all the facts, so if my question sounds out of place, that's fine. Why doesn't the city look after this property?

**Ms Miles:** The city, by and large, does look after a good amount of boulevards and travelled and untravelled portions of the highway, but as a convenience, since we're sometimes talking about very narrow strips abutting your front lawn, you cut the grass as you cut the—

**Mr Sergio:** Oh, are you talking about the boulevards in front of people's houses?

**Ms Miles:** Yes, that's right, immediately adjacent to the property. For example, you have a sidewalk that runs and then there's a little bit of grass beside it. It's that situation, but it's also the situation where it immediately abuts on a residential street on which there is no sidewalk and it's just a little bit of the untravelled portion, because of course it's not totally paved, that full right of way.

**Mr Sergio:** In other words what you're saying—I think my picture is getting clearer—is that you wish to force homeowners to maintain those boulevards or whatever piece of abutting lands, and if they don't maintain it, you're going to be collecting one way or another, from the taxes or by the courts. In other words, you're going to force homeowners or tenants to maintain it.

**Ms Miles:** Currently, the registered owners, by and large all of us, cut the grass in front and the whole of the grass. The only thing we're doing is fixing a bit of a loophole in the Municipal Act which does not give us a hammer if they do not, and it makes it very expensive for us to come out and cut one lawn in one subdivision.

**Mr Sergio:** Mr Chair, I have another question but I'd like to make some comments at the appropriate time, so if you could put me down to speak, I would appreciate it.

**The Chair:** Okay. The next question on this bill, Mr Pouliot.

**Mr Pouliot:** I will need your help, counsel; maybe we can do this together. I have immunity here, which mainly means that you cannot send me a bill for your help, for your counsel.

I'm trying to get to an analogy with some validity, a parallel that has meaning. In our small village where we live up north—it's an organized municipality actually and I had the pleasure of serving 10 years with their municipal council—we had a street, well, it was our definition of a boulevard, and from 33 feet from the centre line, as you extend towards the property, was the ownership, if you wish, of the town.

We had usage and enjoyment as property owners, but we had to reciprocate, so we went back to that 33 feet, or the portion of the 33 feet that was on our property. We all thought it was our lot even if it wasn't, and yet it was in intent and spirit. We did the snow on our lot, we seeded our lot, we mowed the grass, and it went both ways. What you're saying is that, in terms of quality of life, if I don't do it, if I draw a line, you come after me, you cut the grass and you send me a bill.

**Ms Miles:** Exactly.

**Mr Pouliot:** That's what it says here, no more than that.

**Ms Miles:** That's right.

**Mr Pouliot:** I find this commonsensical. Good work.

**Mr O'Toole:** A question from the committee: In preparation for these kinds of routine matters, for me as a committee person, if as has been suggested by Mr Ruprecht this has come before us before, we should know that, so we can spend less time rehashing. Even though I'm new and need to catch up, we're going to ask questions you've heard for 10 years. I'm sure you'll be bored. The point I'm making is, if we've dealt with a similar action from another municipality, we need to know that as part of our preparation kit. That's first, and it's a point to the committee Chair, if I may.

Secondly, to the representatives from Nepean, there are a couple of things in 1(a), "requiring the owners." "Requiring" is a very action-oriented word. It's not discretionary, it's very specific. I have very great difficulty with it. The reason I say that is it's requiring people to remove debris from the highway, the untravelled portion. Let's say there's a milk carton or a pop bottle, whatever, at the side of the road, I'm required to go on to a travelled thoroughfare and remove the bottle. Good luck.

**1050**

Anyway, I don't think you should be required to go into the legitimate place of traffic. You may not be, but you're exposing yourself. I think that's unrequired, and I think you should have sweepers and those things to cover to the curbs. If it's not curbed, then make it the ditch, depending on how the municipality is laid out. Could you respond to that?

**Ms Miles:** Could I just respond. I want to clarify this. In a kind of colloquialism, we often refer to the boulevard as the median dividing two lanes of traffic, and it may be seeded, it may not be. But the travelled portion abutting the highway or the untravelled portion abutting your highway is really the extra grass up to and before your property line on a survey. It's not the median that passes it. So if there's a milk—

**Mr O'Toole:** I think you should say that. If I read it and I'm new to your town and I'm having my first



confrontation—not that but—“requiring the owners of land to clear away and remove garbage and other debris at their own expense from the highways abutting the land except the portion used” by the vehicle traffic. It says “highway.”

The next one describes it in more detail; (c) is where it's clearly the landscaped portion. Do you understand? (c) tells me it is the boulevard or the fronting and connected property. A boulevard to me is when I have four lanes and a boulevard in the middle separating the four lanes, who cuts that? That should be the town, clearly.

**Ms Miles:** It does and it is. I guess the difficulty is that there is a defined term in the Municipal Act that talks about a boulevard just being that portion which is immediately abutting my property as opposed to the centre lane or median.

**Mr O'Toole:** The only question or comment I have is that perhaps the requirement to clear debris from the road—let's say a bag of garbage falls off a car going by my house, am I required to go out on the road and clear the garbage? That's absurd.

**Ms Miles:** Not on the road, no.

**Mr O'Toole:** No, no. And it's sort of on the untravelling portion.

**Ms Miles:** Yes.

**Mr O'Toole:** I don't know. I have a problem with that.

**The Chair:** Mr O'Toole, with respect to your first section, perhaps we can also discuss that at the business subcommittee in keeping with Mr Ruprecht's request. The next question, Ms Papatello.

**Mrs Papatello:** Does the city have any concern about additional liabilities in requiring residents to do any work so that if it is clearing debris and there's some kind of injury, have you considered any kind of spinoff like that?

**Ms Miles:** We're not particularly concerned with respect to that issue. I believe it has been something that's been reviewed over the past 30 years with respect to the care-of-streets bylaw. It doesn't cause us any concern.

**The Chair:** Thank you for that concise and brief question. The next question, Mr Rollins

**Mr E.J. Douglas Rollins (Quinte):** That was the same question that I had: Was there any liability on the municipality, particularly when you're demanding that those people go out on the curb or out on that boulevard, as you call it? I would prefer to call it a side boulevard. There's a centre boulevard and a side boulevard, and I think if you put into your terminology, side boulevards, you would be more specific of what your description of the property that you want cleaned up, because a boulevard description says “any portion of the road right of way that isn't being travelled on,” whether it be in the middle or the edge or wherever it is.

I'm just wondering what kind of responsibility—if I were out there cutting the grass and a car jumps the curb and hits me—physical damage, I'm working for the city. Is there some onus on it?

**Mr O'Toole:** WCB.

**Mr Rollins:** I don't know whether we want to pay workers' compensation on that or not. I'm not sure whether we want to cover that under that.

**Mr Pouliot:** Under workfare?

**Mr Rollins:** If it's under workfare, that's fine, but is there some responsibility there for that community—

**The Chair:** Mr Rollins, did you want a response from the applicant?

**Ms Miles:** I acknowledge what you're stating, and it is an issue that has been brought to our attention before. We really do not feel that it increases the liability of the municipality although, to a certain extent, with respect to the current courts' decisions making municipalities insurers day after day after day, who knows what might happen in the future? What we're attempting to do is decrease our overall costs by lessening the burden on the taxpayer and putting it on the person it should be on, which is the abutting owner. I can't crystal ball gaze and tell you that 10 years down the road the Ontario courts may not consider the municipality an insurer at that point in time, in which case we'll repeal the bylaw.

**Mr Rollins:** I, as a homeowner, have to have insurance for somebody coming in on my property and being hurt, or anybody else. Therefore, is it not a smooth ball? Does it not go for the municipalities too? I would think that it should. But, as you say, you haven't had that problem, so my question's answered.

**Mr Sergio:** Just a question or comments, since this seems to be the order, Mr Chair. Did the Nepean council have any public hearing on this issue?

**Ms Miles:** This was done in association with the property standards bylaw and there were numerous public hearings and open houses that were conducted prior to the enactment. This was always a recommendation within it and in all the drafts of the property standards bylaw. So it was done in conjunction with that process.

**Mr Sergio:** Are you here then on behalf of the property standards department or on behalf of the council of the city of Nepean?

**Ms Miles:** Council of the city of Nepean. They made a number of separate recommendations and Pr13 was one and Pr14 was another.

**Mr Sergio:** But the council did not have public hearing on this issue?

**Ms Miles:** Yes, they did.

**Mr Sergio:** They did. Is the city prepared to indemnify homeowners for damages or injuries that may happen while conducting work on the boulevard?

**Ms Miles:** Frankly, I think it would be an insurance issue, which could be brought up with respect to our property. As Mr Rollins had said, “I, as a homeowner, need insurance.” Well, in much the same way the municipality carries insurance with respect to these issues as well. It's just not been an issue that has been raised as yet.

**Mr Sergio:** Thank you for the answer. I can appreciate what the city's trying to do and I can appreciate Mr Baird for bringing this to the attention of the committee,



but I'm not going to support it. I don't think it's supportable. I don't think this committee should recommend it.

I think it is strictly a local city issue. There are too many questions unanswered. I think we would be taking a very draconian attitude towards homeowners when homeowners are continually penalized. They make improvements to their homes and the assessment goes up and taxes go up, and this would be mostly unfair to homeowners, especially when the property is still in the possession and ownership of the city.

Too often agencies conduct work on boulevards, such as hydro cable, gas company, telephone, whatever, and often those agencies leave quite a mess on those boulevards, and then to say it's the responsibility of the owner to go after those agencies to make repairs and stuff like that I find totally unacceptable, to have this added burden on homeowners.

If the city cannot take responsibility and maintain those boulevards, especially when a homeowner—let's say, they don't work most of them and the houses are rented, the grass is gone. I would find it very hard-pressed to go after a homeowner and say, "Hey, replace the grass on the boulevard," and stuff like that. I think this is a terrible action that this committee would recommend. I can't support it, Mr Chair.

**The Chair:** Response from the sponsor?

**Mr Baird:** I guess I would just indicate—I'm sure the bylaw representative would concur—the vast majority of homeowners of course accept this responsibility and do maintain with reasonable care that front two feet, in most cases, of their property. I guess the concern is, and this is why I'm supporting this legislation, that for the vast majority of homeowners who do—we're talking about, you know, cutting two feet of grass on the front of their front lawn—take that responsibility to sit and watch their next-door neighbour and have to pay—all taxpayers, including the ones who do, have to pay for someone else to come in and take care of that delinquent property owner. So it's just a matter of fairness for those people who do take care of that small two feet, in most cases, of property.

**The Chair:** Have you a question, Mr Pouliot?

1100

**Mr Pouliot:** We can't double-dip on our past experiences as municipal councillors. We're the provincial jurisdiction. Oh, I know, counsel, that you must find it surprising—you too, Madam—from time to time to say, "Do I have to go? Is this not archaic? Does this belong under the auspices of provincial jurisdictional capacity?"

You know, this is a day of devolution. I'm not conducting a witchhunt, you see. What is it that can go wrong? What about if you have an access road? What about if, by way of a variance, you allow the utility company to come in and they forget to pick up the spare tire on the ground or whatever? The thing is, no, no; you're right, the three feet of grass that Harry and Jane Smith—I hope there's no one with Harry—there must be 10 in the phone book so they'll have to fight it out—doesn't need three feet of grass because, as a neighbour, I find that our quality of life as a community—certainly

mine—has been impacted and I want to see that the other seven or eight cars that are left, you know, the junk yard, I don't want to see it as a neighbour. So we want to have consistency and quality of life. Well you have the tools to do it. If you have to come to the province and they give you the tools to do these commonsensical things—Heaven forbid. There's too much of that. Good luck; 1 o'clock flight, the adviser can be there at 12:30, Madam.

**Mr Baird:** I'm constantly impressed by the good common sense of my colleague from Lake Nipigon.

**The Chair:** I'll call for the next question; Mr Hastings.

**Mr Hastings:** The only comment I want to make is I echo Mr Ruprecht's suggestion that counsel of the committee go back and look at—and Mr Shea as well—the pattern of this sort of special coming down to this committee to get special dispensation for doing this sort of stuff. If there's a broad enough pattern of different proposals from other cities that could be standardized, then I think we should have the minister take a look at that in the Municipal Act, where you have these kinds of issues arising again and again and again. I think it's a great idea of Mr Ruprecht.

**The Chair:** I remind you, we will be having a business subcommittee. A question, Mrs Papatello?

**Mrs Papatello:** Is there precedence for this bill as well, Mr Shea?

**Mr Shea:** There is indeed a precedent. It gives me great pleasure to tell you it would in fact it be North York—I'll say that again, the city of North York in Metropolitan Toronto, Brampton, Windsor, Ottawa and York. There's a considerable possibility.

**Mr Pouliot:** What, the city of North York?

**Mr Shea:** I'll say that again. The city of North York has this empowerment and I—

*Interjection.*

**Mr Shea:** Yes, indeed it does, Mr Sergio.

**Mr Sergio:** No, sir. We do not force our citizens.

**Mr Shea:** I can recall very clearly Mayor Mel Lastman at Metro council talking about this with a great vengeance.

**Mr Sergio:** With all due respect, Mr Shea, the city of North York—

**Mr Shea:** Mr Sergio, I was delighted to hear your comments.

**Mr Sergio:** —does not force its residents, I can tell you that.

**The Chair:** Both your comments are noted. Are we still with Mrs Papatello? You had a supplementary question?

**Mrs Papatello:** It just seems it's perhaps oversimplified to consider moving the ownership of the city property to the homeowner with the condition of easement to the city. It will eliminate a liability issue and certainly give additional land to the homeowner but would confirm that they would indeed take care of their own land. It's just a thought, but there's precedence already so I don't think it's needed.

**The Chair:** A new question, Mr Boushy.

**Mr Boushy:** I am actually in favour of the bill. The greatest majority of the people cut that portion of the grass anyway. We're only dealing with just a few people. My position is that I think the city has a responsibility to keep the city looking good and beautiful.

With regard to Mr Sergio's point that there's going to be a bylaw drawn up by the city and that bylaw would be advertised and there will be public hearings and the people will have the right to object and the city at that time has the right not to go ahead with the bylaw if there are enough objections—so it'll be another way for the public to express opposition—here, all we are doing is allowing the city to come up with a bylaw, and at that stage it could either go through or not. Am I right?

**Ms Miles:** Absolutely.

**Mr Ruprecht:** I think it was very interesting the comment that was made between the parliamentary assistant and Mr Sergio, as you just heard. It's not only a question of being fairly well informed, but if we were to do this a bit more efficiently, then we wouldn't have some of these comments to be made. This is just one more reason why it's important to do this in an effective manner.

But, Mr Chair, there's just one other item I'd like to add to my previous comments, if you don't mind, and that is, my comments did not only exclusively speak to this item in terms of garbage removal and grass cutting. There are a number of other items where city after city comes before the committee, and I'm speaking about trying to determine a way where this is no longer necessary.

It isn't just on one item. You should be looking at other items that are in the same category where a whole day—for instance, if you looked at the city of Nepean today and you asked the question, "Are you taking off a whole day to come to Queen's Park for some of the employees?" the answer would be—and in some cases they're not taking just one day to come here, in travelling time it might even take two days, which is a total drain on the taxpayer. I guess I'm clear enough to indicate to you that the issue is a bit broader than just one particular item. It should be inclusive of other items as well.

**The Chair:** Thank you for the questions. Are members of the committee ready to vote? Agreed.

With respect to Bill Pr14, and again following this process, shall sections 1 and 2 carry? Carried.

With respect to section 3, Mr Smith.

**Mr Smith:** I have a motion to put before the committee.

I move that section 3 of the bill be struck out and the following substituted:

"Default

"3. If an owner of land fails to comply with the bylaw passed under section 1 within the time specified in the notice given under section 2, the corporation may do the work or arrange for the work to be done and the corporation may recover all expenses, including administrative fees, from the owner by action or it may collect them in like manner as municipal taxes."

Just to provide some clarification, the purpose of the motion is to provide a power to recover the amounts owing that is similar to other municipal private bills dealing with grass and weeds.

The amounts under the new section can be recovered in like manner as municipal taxes. This means that the amounts can be administratively recovered through the tax bill but the amounts do not have the priority of municipal taxes. Municipal taxes come ahead of all other claims, such as mortgages.

If there are further questions, I will defer to the parliamentary assistant or counsel for the ministry.

**The Chair:** Shall this amendment carry? Carried.

Shall section 3 carry, as amended? Carried.

Shall sections 4, 5 and 6 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill, as amended, carry? Carried.

Shall I report this bill to the House? Will do.

**Mr Gilles Bisson (Cochrane South):** Make it so.

**The Chair:** I wish to again thank the sponsor and all parties connected with this bill.

I will remind you on the back of the agenda we have a third bill to consider.

1110

#### CITY OF MISSISSAUGA ACT, 1995

Consideration of Bill Pr37, An Act respecting the City of Mississauga.

**The Chair:** I wish to call the bill on our next order of business, Bill Pr37. I would ask the sponsor, Mr Rob Sampson, MPP, Mississauga West, and applicants to come forward and briefly introduce themselves.

**Mr Rob Sampson (Mississauga West):** Thank you, Mr Chair. I don't know how we got to the back of the agenda list, but we'll have to work on that next time, I suppose.

I'm happy to speak to this. First of all, I'm Rob Sampson, and here from the city are Brian Duxbury, city solicitor's office, and Herb Droogendyk, city finance department. Do you want me to speak to the bill now, Mr Chair?

**The Chair:** I would ask the sponsor for comments, please.

**Mr Sampson:** This particular bill was first obtained by the city in 1987 and was renewed by the Legislature in 1990. What we're asking for is a renewal of this particular piece of legislation.

One of the larger differences that was drawn to my attention was that this particular piece of legislation as proposed has no time limit, but given that a considerable amount of Queen's Park time and a considerable amount of Mississauga staff time is consumed in renewing this piece of legislation on a five-year basis, it didn't seem appropriate for us to go through those hoops five years from now. So I was prepared to bring forward this bill without the five-year time horizon on it.



I'm going to have my colleagues from the city of Mississauga speak to the content of the bill, if that's okay with you, Mr Chair.

**The Chair:** Yes. I'd ask the applicants to comment.

**Mr Brian Duxbury:** Mr Chairman, members of the committee, thank you for this opportunity to speak to this bill. The purpose of the bill is to extend a tax refund mechanism that the city uses to provide some limited tax relief for certain groups of individuals in the city of Mississauga, and those groups of people are defined in section 2 of the bill and you see that there. This is simply an extension request. The mechanism has been in place now since 1987 and provides limited relief.

The other technical component of the bill is an amendment to section 8 that would allow the treasurer or his or her designate to prepare the necessary registrations or give the necessary certificates that deal with the tax refund mechanism.

I guess the only other thing I should point out is that this tax refund is financed totally by the city of Mississauga, so it has no impact on any other agencies. Those are my comments, sir.

**The Chair:** I would ask the parliamentary assistant for comments on behalf of the government.

**Mr Shea:** The government has no objections to the passage of this bill.

**The Chair:** I would ask for questions, beginning with Mr Pouliot.

**Mr Pouliot:** Just a comment to summarize. I appreciate the presentation and you will convey, of course, our salutations, our greetings to Hazel McCallion. To reach legendary status at such a young age is somewhat uncommon.

Under good leadership—and John, my distinguished colleague, is right—not all subjects shall be treated the same. I have noticed—with some envy, I live so far from those large cities—that Mississauga has been the recipient, has benefited from immense wealth through assessment at the industrial, at the commercial and at the residential levels. It really has mushroomed over the past years, which brings us to this kind of benevolence.

I didn't know, I was not aware, not that I am a judge of character, that Hazel McCallion was the chairperson of the house of benevolence. I was all wrong, because she was in my office—I had four ministries with the previous administration, and she was in my office constantly making some presentation. In fact I once referred to the distinguished mayor as being so honestly dishonest. She didn't come bearing gifts, but when we parted she was bearing my gifts on behalf of the province.

I'm happy to see that for those who need it the most, you have some stipulation as to what you do if you and your spouse are age 60 and you fill the criteria. I commend you. Again, that's at no cost to the province. These are difficult times, and they are still able nowadays to say, "We will give up to \$500 to people who need it the most in recognition of their citizenry within our boundaries." Thank you. I have no more comments. I commend the city of Mississauga. I wish we were so lucky.

**The Chair:** Any further questions?

**Mrs Pupatello:** Just out of curiosity, really, what is the method of repayment used on these types of loans?

**Mr Duxbury:** I have with me today Herb Droogendyk, who is our manager of revenue. Perhaps Mr Droogendyk will assist us with that question.

**Mr Herb Droogendyk:** Certainly. The loans are secured by a lien registered on the title at the time the first loan is given. The total loan amount is repayable at the time the property transfers title.

**Mrs Pupatello:** Are the \$300 and \$500 levels that you set out the typical loans?

**Mr Droogendyk:** We started out at \$300 and increased it to \$500 in 1991.

**Mrs Pupatello:** So the loans currently for the 66 outstanding are fairly significant, to total \$114,000.

**Mr Droogendyk:** Right. The maximum as of December 31, 1994, was \$3,200.

**Mrs Pupatello:** If it's not repaid, it puts you in a position to possess the home?

**Mr Droogendyk:** We've not had to do that. They've all been repaid.

**Mrs Pupatello:** But putting a lien on the title does, in effect, give you that opportunity. What would you do if the loans couldn't be repaid?

**Mr Droogendyk:** I don't know what we'd need to do. We've not had that problem up to now. Right now the maximum amount we've allowed is \$3,200 over the term of the program, so there's not a whole lot of money to be recovered.

**Mr Duxbury:** If I might speak to that, the lien is recovered at the time of transfer and normally that would provide the mechanism for recovery, a sale of the property.

**Mr Pouliot:** Two years down the line.

**Mr Duxbury:** Yes.

**The Chair:** Any further questions?

**Mr Bisson:** Just very quickly. Like my colleague, I'll vote in favour of this, but I want to point out just one thing. I understand what the city of Mississauga is doing here and quite frankly commend you for trying to do something to assist those people who are most vulnerable and most in need of help.

The only point I would make is that I think this is a good example of how really we're in need of better provincial coordination of how you do this stuff, because part of the problem I have with this here is that although it's good for the people that it reaches, it only affects property homeowners. In a lot of cases, we have a lot of people in these categories that you set out under section 2 who happen to be renters, by no fault of their own, who are just as much in need of help.

The only comment I would make is that I think this speaks to the need to have probably this kind of stuff not so much done by municipalities but by the provincial authority through a more comprehensive, universal program of some type. We don't have the money to do that at this point, obviously, but I think I would commend the city of Mississauga for doing what it can but would just say on behalf of a number of other people out there

who happen to be tenants that there's nothing in this for them. But anyway, none the less, it's a step in the right direction.

**Mr Pouliot:** It should apply to landlords so it could trickle down.

**Mr Bisson:** Maybe we can bring forward a private bill dealing with that, to pass it on to the landlord. Never mind.

**The Chair:** Seeing no further questions or comments, are members ready to vote on this bill?

With respect to Bill Pr37, shall sections 1 through 5 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report this bill to the House? Agreed.

I wish to thank the sponsor and the applicants. Thank you for the comments on this particular bill. I declare that order of business closed.

Before we adjourn, any further business not on the agenda?

**Mrs Papatello:** I understand, in speaking with one of your members, that there's an opportunity to move the Canadian Niagara Power Co to this coming week's agenda. Is that so?

**The Chair:** I might ask the clerk to comment.

**Mrs Papatello:** So they will be on this coming Thursday.

**Clerk of the Committee (Ms Lisa Freedman):** The way we schedule is we tend to give people one week's notice, so after this meeting we'll call everybody for next week. They are on the list to be called for next week. I believe there may be some interested parties. Assuming there is no problem with scheduling, they will be on the agenda for next week.

**Mr Shea:** Just to facilitate the business of the committee and to pick up on a comment made by Mr Ruprecht, I'd like to move that the matter of tax exemptions be referred to the subcommittee to report back before the end of this session and, hopefully, before a first bill in terms of tax exemptions be heard, so we'll have a chance to report back to the committee.

**The Chair:** A request from the clerk: Could we have that in writing, just to clarify?

**Mr Shea:** Yes.

**The Chair:** The clerk could address that now. Is there some background? I'm sorry, Mr Shea, do you want to speak further to that?

**Mr Shea:** It's simply a matter of facilitating the affairs of this committee. There are a number of items and Mr Ruprecht was referring to one item where there's a lot of ongoing business that's been coming before this committee, month after month, and Mr Pouliot spoke to that as well.

There are ways I think for us to facilitate the business of this committee and get down to some more fundamental issues we should be debating, rather than constantly hearing—tax exemptions tend to be one of those issues. We all know they come forward from a whole range of places, mostly municipalities, and I think there may be a way for us to wrestle with that and make some recommendations that would be agreeable to everyone, not only in the government but all parties. I would suggest the subcommittee in fact meet, discuss it, let's get on to it and then get down to the more important aspects of business of the committee.

**The Chair:** All in favour? Opposed, if any? Motion carried.

Motion to adjourn? Adjourned.

*The committee adjourned at 1122.*









## CONTENTS

Wednesday 22 November 1995

<b>City of Nepean Act, 1995</b> , Bill Pr13, <i>Mr Baird</i> .....	T-13
John R. Baird, MPP	
Nancy Miles, solicitor, city of Nepean	
Susan Jones, manager, bylaw services, city of Nepean	
<b>City of Nepean Act, 1995</b> , Bill Pr14, <i>Mr Baird</i> .....	T-17
John R. Baird, MPP	
Nancy Miles, solicitor, city of Nepean	
<b>City of Mississauga Act, 1995</b> , Bill Pr37, <i>Mr Sampson</i> .....	T-21
Mr Rob Sampson, MPP	
Mr Brian Duxbury, solicitor, city of Mississauga	
Mr Herb Droogendyk, manager of revenue, city of Mississauga	

## STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

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- \*Boushy, Dave (Sarnia PC)
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- \*Ruprecht, Tony (Parkdale L)
- \*Sergio, Mario (Yorkview L)
- \*Shea, Derwyn (High Park-Swansea PC)
- \*Sheehan, Frank (Lincoln PC)

\**In attendance / présents*

**Clerk / Greffière:** Freedman, Lisa

### **Also taking part / Autres participants et participantes**

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# Official Report of Debates (Hansard)

# Journal des débats (Hansard)

Wednesday 29 November 1995

Mercredi 29 novembre 1995

Standing committee on  
regulations and private bills

Comité permanent des  
règlements et des projets  
de loi privés



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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
REGULATIONS AND PRIVATE BILLS

Wednesday 29 November 1995

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS  
ET DES PROJETS DE LOI PRIVÉS

Mercredi 29 novembre 1995

*The committee met at 1007 in committee room 1.*

**The Chair (Mr Toby Barrett):** Good morning. I welcome everyone to this our third meeting of the standing committee on regulations and private bills, Wednesday, November 29, 1995.

I think everyone will have an agenda. I remind you the agenda continues to the back of this page as well.

WATERLOO COUNTY  
BOARD OF EDUCATION ACT, 1995

Consideration of Bill Pr11, An Act respecting the Waterloo County Board of Education.

**The Chair:** Our first order of business is consideration of Bill Pr11, An Act respecting the Waterloo County Board of Education, and I would ask the sponsor and the applicant to come forward.

**Mr Gary L. Leadston (Kitchener-Wilmot):** I appreciate the opportunity of appearing before the committee and also to act as a substitute. On my left is George Ambeault from the Waterloo county public school board. He's the administrator of financial services. For those who are not familiar, the Waterloo County Board of Education is a regional board encompassing seven municipalities within the regional municipality of Waterloo. The seven are the city of Kitchener, the city of Waterloo, the city of Cambridge, and the townships of Wilmot, Woolwich, Wellesley and North Dumfries.

I vetted this through the various levels down here in the Clerk's office and evidently it's a relatively routine matter. However, George is here to speak more specifically to the bill and answer any of the detailed questions that the committee members may have. So without delaying the process any further, perhaps George may want to highlight the rationale, his reasons for being here.

**Mr George Ambeault:** Thank you. As the documentation I've provided has told you, this bill is an attempt to solve a gap in the arrangements being made with the previous government for funding for school boards building capital projects when it introduced the Capital Investment Plan Act.

What actually happened was, we were told that we were no longer required to seek Ontario Municipal Board approval before we issued debentures under the new Ontario financing act. We went ahead with other school boards in the province and did so. We built the schools; the students were in the schools. It came time to apply for our debentures. Legal counsel told us we could not apply for the debentures because we had not received Ontario Municipal Board approval.

After long, convoluted conversations with lawyers it was determined that we could no longer obtain Ontario Municipal Board approval because students were already in the schools; therefore, it no longer had jurisdiction over the process. So in order to obtain our debenture financing for the schools—we had spent over \$4 million of the money in the region, adding on to schools, putting in portables and renovating schools—we have to have a bill passed that effectively gives us Ontario Municipal Board approval after the fact, and that is what we are seeking today.

It's a process that has been carried out and the bills have been approved for two other school boards last year. The Simcoe county board had its legislation approved and so did the London board of education. So if there are any questions, Mr Chair—

**The Chair:** Are there any other interested parties who wish to comment? I would ask the parliamentary assistant, are there any comments on behalf of the government?

**Mr Derwyn Shea (High Park-Swansea):** Clearly, as many members of the committee will know, this is a transitional problem that has been pointed out rightly by the deputant, a transitional problem for approval of certain capital projects. Precedents cited include boards of education for London, Simcoe county and the township of Tay, so we have some precedent to guide us in this. The precedents go back to 1993-94, when there was an attempt to make some changes, appropriate changes I might add. I will also add that the board is within its borrowing limits. The government has no objections to this bill.

**The Chair:** First question, Mr Pouliot.

**Mr Gilles Pouliot (Lake Nipigon):** Mr Shea—and I thank you—has perhaps answered the second part. I have two very simple questions. Life can be a dream, sometimes complicated by process. Most of us here, a good many of us, have municipal experience, and I think the analogy has some validity. We can parallel your dilemma when it comes to process, and we've all been fearful of the OMB.

I need your help. What is your borrowing capacity and where are you at present? There's no reason why, if the province has a AA rating heading in the negative direction, you should have a AAA rating. So what is your borrowing capacity? How often have you used a credit card, sir?

**Mr Ambeault:** On credit cards, we do not have board credit cards. There was a bit of a controversy around that



last year. I don't remember the numbers off the top of my head, but we are probably about 10% of the borrowing capacity according to the guidelines, maybe a little bit higher.

When we issue a debenture, we issue it in conjunction with the regional municipality, and the last time we issued a debenture we had a higher credit rating than the province of Ontario did at that point.

**Mr Pouliot:** Four o'clock will come early. With respect, the New Democratic Party, Mr Chair, certainly will be on par with the findings and your opinion and the database that—Enjoy. Christmas will come late in your case. Go and borrow, and borrow some more.

**The Chair:** I have a second question. Mr O'Toole.

**Mr John O'Toole (Durham East):** I guess my question was the same as the previous one to some extent. What is the amount of this particular debenture?

**Mr Ambeault:** It's \$4.5 million.

**Mr O'Toole:** And what is the government's liability? Do they somehow underwrite the debt load under the municipal—I guess it's under the regional authority that you're borrowing the money?

**Mr Ambeault:** The boards have the power to borrow on their own.

**Mr O'Toole:** On their own, through the regions.

**Mr Ambeault:** But we are borrowing through the region to reduce our costs by putting a package together. We can reduce our brokerage fee, so we do it as a joint project.

**Mr O'Toole:** Yes. So I guess the question is, what responsibility or liability does the province have in underwriting? Perhaps that's to the parliamentary assistant.

**Mr Shea:** At this juncture, as members will know, the prime responsibility rests with the regional board. In the Constitution, I suppose one could argue and stretch the point that ultimately the province is responsible for all debts of all lower-tier governments, but in fact that's something that has only very rarely been invoked in the history of this province. Indeed, the board itself is quite capable of dealing with this, is empowered to deal with this. It is a legitimate expenditure. In fact, in many ways, this is a technical mechanism for them.

**Mr O'Toole:** Very good. Thank you.

**The Chair:** Any further questions?

**Mr Mario Sergio (Yorkview):** Just to be on the safe side, can you ask if there is any one objecting to the bill, please?

**The Chair:** Is there anyone on the committee objecting to this bill?

**Mr Sergio:** Not on the committee; in the public.

**The Chair:** Oh, I'm sorry. Is there anyone in the room objecting to this bill? Hearing none, are the members ready to vote? Hearing the affirmative, again following a procedure of combining several of the sections, I'll pose the question.

Shall sections 1 through to section 4 carry? Carried.

Shall the schedule carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Do I need a motion to waive fees? No.

I wish to thank all parties.

Before we move to the next bill, I would ask the members of our business subcommittee if they could remain very briefly at the end just for some scheduling for a committee.

#### CANADIAN NIAGARA POWER COMPANY, LIMITED ACT, 1995

Consideration of Bill Pr12, An Act respecting Canadian Niagara Power Company, Limited.

**The Chair:** Our next order of business is Pr12, An Act respecting Canadian Niagara Power Company, Limited. I would ask the sponsor and the applicant to come forward, please. The sponsor for this bill is MPP Tim Hudak.

**Mr Tim Hudak (Niagara South):** I am Tim Hudak, the member representing Niagara South, and I am honoured to sponsor Pr12, An Act respecting Canadian Niagara Power Company. Canadian Niagara Power has a rich history in the Niagara Peninsula and is a major employer in my riding as well as in bordering ridings.

I believe that this bill will lead to an enhanced economic environment in my area, and I'm pleased to introduce the members from Canadian Niagara Power, Mr Harry Macdonell is in the middle. He's the chairman of Canadian Niagara Power. To his right is Donald Smith, the director of Canadian Niagara Power and the solicitor. Beside me to my right, is James Fretz, vice-president and general manager.

**The Chair:** Mr Hudak, do you have anything further say about this bill?

**Mr Hudak:** I'll let—

**The Chair:** I would ask the applicants if they wish to comment on this bill.

**Mr Harry Macdonell:** Canadian Niagara Power was incorporated at the dawn of the electric age in 1892. It built the first power plant on the Canadian side of the Niagara River, and it has generated electricity pretty much continuously since 1905.

Currently, so far as generation is concerned, we have arrangements with Ontario Hydro under which we actually allow Ontario Hydro to use our water downstream to produce more electricity than we can produce. They then keep the excess and return to us an amount of electricity equivalent to the amount that we could have generated.

We also transmit power to the Fort Erie area and we serve 13,000 customers in the Fort Erie area. We sell power to Cornwall, Ontario, and we transmit that by displacement through upstate New York. We sell power to Ontario Hydro, to the extent that we have excess, and then if we have any left over, we sell it to Niagara Mohawk in the United States. We're a full-service company, in other words. We have 80 employees and we think we've done a pretty good job of serving our service area over the many years we have been active.

The reason we're before you here today is that we were incorporated by a special act of the Ontario Legislature. For those of you who don't have a legal background, the effect of being incorporated by a special act of the Legislature is that you are restricted in your activities to those activities that you're specifically authorized to do by the legislation, and of course there are specific restrictions on things that you can do.

1020

For example, in our case, we are only allowed to borrow up to \$10 million on the security of real property. I'm sure that, in 1892, that was considered to be an amount of money that no one in their right mind could ever exceed on capital projects but, as you all know, today it's a pretty small amount.

We've also found that just in order to make sure that we fit within our powers, we've had to carry out transactions in a very complicated manner. I'll give you an example: We recently acquired a wind generation plant in Alberta, at Cowley Ridge. It's Canada's largest electrical generating station powered by windmills. In order to do that, we found we had to use a Quebec partnership, of all things, to acquire our interest in an Alberta project. Needless to say, it cost us a great deal in legal and other fees to complete the transaction because it was convoluted and much more complex than it need be.

**Mr Pouliot:** I want to go after the Quebec partnership after this.

**Mr Macdonell:** Our purpose in asking for this legislation today, which would treat us in every respect in the way other Ontario business corporations are treated, is simply to give us the freedom to make investments and to pursue our objectives without having to go through the very convoluted processes that we have. In order to do that, we would also be giving up any special powers we have under the legislation that currently exists.

I might just check and make sure that I've covered the things I should. One thing I should explain is that our lease to take water from the Niagara River expires in the year 2009. It was a 100-year lease and it's up at that point in time. Obviously we are going to have to look to alternative arrangements, both for our company activities and also to secure power for our service area. That's one of the reasons we're very active in trying to develop business strategies to expand our operations.

I should comment that we have looked at other investments, and Cowley Ridge is the only one we've made to date, but we see our activities expanding into areas right across Canada.

In connection with this bill, we have consulted with legislative counsel and we hope to talk to all of the stakeholders who might have an interest in what we are doing. We have spoken to Ontario Hydro, of course, the Ministry of the Environment, the Ministry of Finance, the Niagara Parks Commission, the Municipal Electric Association, our own union, which is the International Brotherhood of Electrical Workers. We've also spoken to Ontario Hydro's union, the Power Workers' Union.

As far as we're aware, we can't think of any reason why we should be subject to the restrictions we're currently subject to, and none of the people we have

talked to have identified objections to what we are proposing.

That's a quick summary. I'm sure I haven't covered everything, but I'd be happy to answer questions.

**The Chair:** I would ask, would either one of the other applicants have anything further to add? No. Are there any other interested parties in the room who wish to comment on this bill?

**Mr Pouliot:** I'd like to get the government's position first and I will have, with respect, some questions for Mr Macdonell.

**The Chair:** I will ask our parliamentary assistant for Municipal Affairs, Mr Shea, for any comments on the part of the government.

**Mr Shea:** The government has no objection in general with the application. It has a couple of caveats it just wants to make sure it has got on the record, for the purposes of Hansard especially.

As the applicant has made very clear, the proposed amendments are going to allow Canada Niagara Power to incorporate under the Ontario Business Corporations Act, which will give it the same kind of structure as any other corporation in the province of Ontario, the same rights and the same responsibilities.

CNP currently has a monopoly franchise to supply electricity to the Fort Erie community and it is required to track its rates in neighbouring areas and that should not change as a result of this amendment. As the Chairman has pointed out to you, the power lease expires in 2009.

**Mr Gilles Bisson (Cochrane South):** The water lease.

**Mr Shea:** Yes, the water lease—and they should not expect that lease will necessarily be extended, and if it is, certainly not under the same favourable terms. It is my understanding that CNP has indeed provided written confirmation that it does not expect that the government would consider any extension to CNP under the same terms if they did apply.

Finally, CNP currently wheels electricity through the Ontario Hydro system to supply its customers in Fort Erie. That issue is currently under consideration by the Advisory Committee on Competition in Ontario's Electricity System.

I think with those having been read into the record, the government states it has no objection to the incorporation.

**The Chair:** I call for questions from committee members to either the applicants or the parliamentary assistant. The first question, Mr Bisson.

**Mr Bisson:** I actually have a series of questions. Just so I understand, I take it you own water rights on the Niagara River, and on that you have a generating station or stations. How big is it? How many megawatts is that?

**Mr Macdonell:** Seventy-five megawatts is the capacity of the station. It's actually a 25-cycle station, so it is operated as part of the Ontario Hydro system.

**Mr Bisson:** Where are they using 25-cycle down here? I thought 25-cycle was all phased out as of this year and next year.



**Mr Macdonell:** No, there's still a demand for 25-cycle power.

**Mr Bisson:** Pardon me. "Phased out" is not a very good term in the electrical sense. If it phased out, you'd have real problems in your generation, let me tell you.

So you have a 75-megawatt plant, and that's all you have as a corporate entity that brings in revenue? That's it?

**Mr Macdonell:** No, we have transmission lines from—

**Mr Bisson:** No, on the generation side.

**Mr Macdonell:** On the generation side in Ontario that's our only generating plant.

**Mr Bisson:** Then the agreement that you have on your water rights is that Ontario Hydro gives you the surplus and through your corporation you supply electricity to the PUC in Fort Erie? Is that how it works?

**Mr Macdonell:** No, what happens is that we have the right to take sufficient water from the river to generate 100,000 megawatts. In fact, what we have done is agreed with Ontario Hydro that they might take that power and put it through their plant, the Beck plant, further downstream. Because the head is higher, they can actually generate about three times as much electricity as we could generate through our plant.

In effect what happens is that Ontario Hydro will give us back 60-cycle power equivalent to the amount we could generate with our plant and keep the other two thirds for their own use.

**Mr Bisson:** So they give you back 75 megawatts of 60-cycle power that you then resell.

**Mr Macdonell:** That's right, and we have to maintain our plant on standby because there still is a 25-cycle load in Ontario, particularly at Hamilton, where Stelco still has a 25-cycle load. I think I'm right, Jim, aren't I? I should defer to the expert next to me, Jim Fretz.

**Mr James Fretz:** I believe there's about a 40-megawatt maximum 25-cycle demand still in southern Ontario. However, 25-cycle generation is often run through frequency changers and included into the 60-cycle system.

**Mr Bisson:** Yes, not very efficiently though.

**Mr Fretz:** So there is a need for 25-cycle.

**Mr Bisson:** That's why I was asking the question if you're 25-megawatt. I thought Hydro had taken the position actually when we were in government that started with the Liberals, then on to us, that all of the loads would be changed over to 60-cycle as far as customers.

I know in my area, the Pamour mines and a number of them that were running on 25-cycle as supplied through Ontario Hydro had been forced, through negotiations with Ontario Hydro, to go to 60 cycles. That's why I was asking the question. So you're keeping your 75-megawatt plant in operation to supply the customers of Ontario Hydro who still require 25-cycle.

**Mr Macdonell:** That's right. I should say, the plant does not run very often. By agreement it has to be on standby. It runs sometimes at night, but it's only when Ontario Hydro needs generation from that plant.

**Mr Bisson:** What I'm trying to figure out here is, when I first looked at the bill and read through it—it will come as no surprise that myself and my party are not big fans of privatization of Ontario Hydro. It's something that the government is considering doing. None the less, I understand as a corporate entity you've got to survive in some way, so I'm not going to oppose the bill.

**1030**

But I have a couple of questions, and one question is simply this: The reason that you want to do this is in order to be able to utilize your distribution company, to be able to partner with other people, like "Where are you going with this in the end?"

**Mr Macdonell:** We obviously want to extend the life of our corporation beyond 2009. So we are looking at a number of investments and one we've made so far is the wind plant in Alberta and we want to make other investments in Canada whenever it's appropriate for us to do so.

An awful lot is happening in the electrical industry, but the opportunity will probably come for us to acquire power from other generators to service our area and, because of our relationship with Niagara Mohawk and also simply because of the work we've done, we think we may be in a position to acquire power from other generators to continue to service our area once our rights on the river expire.

**Mr Bisson:** So what basically it comes down to, you lose your water rights, you lose your source of revenue and what you want to do is restructure—well, not restructure but be able to go out and to form the partnerships you need in order to survive as a corporate entity. How many employees do you have now?

**Mr Macdonell:** We have 80 employees.

**Mr Bisson:** Okay. I would just add to that, Margaret Harrington, whom you know well, lobbied myself and my friend here a number of times in order to make sure that we understood what the issues were here, and without any further comment I would support your application.

**The Chair:** Now second question, Mr O'Toole.

**Mr O'Toole:** Some of my questions have been asked. First of all, as a commission—just to understand, very primary, I don't have near the knowledge of the background—is the board an elected body, an appointed body, or how is the current board structured?

**Mr Macdonell:** I hope I can get this exactly right. Our current board consists of nine members of whom five are nominated by Niagara Mohawk and four are independent. I would say I'm independent. Ron Smith is an independent member of that board. Milan Nastich, who is a former chairman of Ontario Hydro, is on our board and Grant Reuber, whom you may know, a former Deputy Minister of Finance and deputy chairman of the Bank of Montreal, now the chairman of the CDIC, is on our board.

**Mr O'Toole:** The point I'm trying to make, not necessarily the names particularly, is how do they get there? Are they through partner bodies or is it appointment by order in council? How did they get there?



**Mr Macdonell:** The company is controlled by Niagara Mohawk, which is a large power utility in upper New York. They are nominated by Niagara Mohawk.

**Mr O'Toole:** So the parent company really is Niagara Mohawk?

**Mr Macdonell:** Yes. But you do raise a question. One of the other reasons that we're quite interested in becoming an ordinary Ontario business corporation is that we have issued all the shares we're entitled—

**Mr O'Toole:** That's my next question.

**Mr Macdonell:** We would like to seek Canadian shareholders and indeed have had discussions with Canadian shareholders, and this legislation will enable us in fact to make arrangements with other Canadian shareholders to introduce the company.

**Mr O'Toole:** That's my next question. Really, the main challenge would be to increase your ability to raise capital. Technically, if you want to expand in your borrowing powers, the Business Corporations Act would entitle you to have a borrowing limit, I guess, based on something. Would this become a publicly traded equity kind of thing?

**Mr Macdonell:** That is certainly something we would like to achieve eventually. We would like to achieve Canadian shareholders. At the present time, the makeup of our company is not one which really lends itself to an initial public offering in securities. But if we could get it restructured and we can reconstitute it so it has a longer future, it would be attractive, I think.

**Mr O'Toole:** What is your equity today? Is your equity this actual water sale thing you have with Hydro? Buildings? What is your equity or your capital stock? I mean, do you have \$10 million in assets?

**Mr Macdonell:** I can make a guess. It depends on how you value it, but I would think the total value of our assets is somewhere in the order of about \$100 million.

**Mr O'Toole:** So you have lots of equity to go to the capital market to raise capital, I gather.

**Mr Macdonell:** We have about \$100 million in assets, depending on how you value them, obviously, and we don't have any outstanding debt.

**Mr O'Toole:** So you will go into the capital, preferably, to raise that on the public ability to raise capital, selling shares, equity.

In what area are you going to compete? Who are your competitors? Are you in the generation business or the transmission business? Which part of the business? Hydro is the generator, and to some extent the smaller companies, including the hydro commissions, transmit.

**Mr Macdonell:** I have difficulty answering that question because I don't know how things will develop in the province of Ontario. We obviously have read the statements that were made in Mr Farlinger's report and the most recent document that Mr Kupcis put out. If opportunities arise in the province of Ontario to become involved in generation, in distribution, those are things we would certainly be interested in. At the moment, the opportunities are often elsewhere in Canada because their policy decisions have been made.

The investments we're looking at right at the moment are on the generation side, but what we would like to do, if we were afforded the opportunity to do so, of course, is to invest in those activities which are closest to our core business and the things we understand.

**Mrs Sandra Pupatello (Windsor-Sandwich):** What this bill will do is allow you to raise capital and potentially invest in other types of projects, like the power plant that feeds the Chrysler plant in Windsor, TransAlta. You didn't have an opportunity to bid or participate in providing that power for that plant because of the restrictions. With the passing of the bill, then, you'll be able to enter into these types of ventures and, in answer to Mr O'Toole's question, the kinds of private power-generating plants that are popping up now. We have two in Windsor. You have been precluded from participating in potentially being the power provider. This is going to allow you to do that.

**Mr Macdonell:** That's correct. I wouldn't say we have been prevented, because we actually can do many of these things, but we've had to do them in a very convoluted manner. As I pointed out, we had to use a partnership in Quebec to acquire an asset in Alberta. That's the main reason.

Generally, we've been able to make investments in one way or another, but we'd like to be able to make them the same way others can. And frankly, if there were two companies interested in a project, we might find ourselves at a disadvantage because of the situation we're in. But where it's appropriate for us to do so, something along the lines of the plant you've just described would be of interest to us, yes.

1040

**Mr Pouliot:** My God, you've done very well, Mr Macdonell. You've survived not only one but two partnerships with la province de Québec. Imagine. But you have no objection trying to get your company listed with the likes of the Vancouver Stock Exchange. Maybe we'll give you a direct number to Murray Pezim. He'd be quite interested in promoting your venture.

But it was matter-of-factly that you endorsed the Alberta Stock Exchange, which is a glorified version of the Vancouver exchange. The Vancouver exchange has shown me in my previous life what not to invest in. Should you get listed on the TSE, your company would become one you would look forward to investing in and we wouldn't have to short your stock.

Would you describe your situation and relationship as unique in the province of Ontario?

**Mr Macdonell:** It's not unique, but it's certainly unusual. There are very few privately owned generating companies in Ontario. We're not unique. Obviously, there's Gananoque Light and Power, which is a full-service company. Great Lakes in northern Ontario is in much the same position.

**Mr Pouliot:** I'm envious of the position. Our riding is so underpopulated, and it's 1,000 miles long all the way to Hudson Bay. Then we have Lake Superior and Lake Nipigon. We would like to have the kind of relationship whereby we would do our own thing at home.



There's nothing wrong with privatizing, but it would also be nice if we could get part of our capacity back on the Ontario Hydro grid. Grosso modo—I know it varies; I know you have contingencies to address—what percentage of what you produce in terms of electricity goes back into the Ontario Hydro grid?

**Mr Macdonell:** Oh, a very small percentage. Actually, when you come down to it, we actually get most of our electricity from Ontario Hydro, and what we don't need to service Fort Erie and Cornwall is available to Ontario Hydro; it doesn't necessarily go back to it.

It's interesting. We have in fact looked at projects in your riding. As you know, there are some substantial independent power producers, particularly in the Lake Nipigon area.

**Mr Pouliot:** Yes. You do very well in those initial contracts. We're learning, Mr Macdonell. So you're fully capacitated and you're looking for money to expand.

**Mr Macdonell:** What I should say is that we're well capitalized at the moment. We have significant assets. We don't have any substantial borrowings. If I gave the impression that we are immediately looking to raise a lot of capital, then I'm sorry; that's the wrong impression. I think we're much more interested in acquiring Canadian shareholders and Canadian partners in our enterprise.

**Mr Pouliot:** When you talk about equity, with respect, your corporation presents a good front. If I were a banker, should I be concerned about water rentals and the philosophy of "as long as the river flows"; that once you reach the end of an agreement, equity, by virtue of "as long as the river flows," would jeopardize your equity and your ability to borrow? Should I be concerned about that, that when the calendar works and comes to the end of the agreement, equity has a different meaning?

**Mr Macdonell:** Unless we are able to develop other projects and other businesses for our corporation, clearly, as a banker I don't think you would lend us funds which could not be justified on the basis of revenues we would be able to secure under our current agreement.

**Mr Pouliot:** I'll buy the preferred and we'll leave the common for the Conservatives. They do very well at that.

I have no question. I'm endorsing this. I think they have a lot of guts in this day and age.

**Mr Leadston:** To pick up on your endeavour with western Canada on the wind turbines, perhaps if you could harness the wind that's created in committee and in the House, it would be truly unique and truly Canadian.

**Mr Bisson:** I just want to clarify something. You said a little while ago that very little of the power you generate goes out on the grid. I thought you said your 25-cycle was sold back to Hydro.

**Mr Macdonell:** Whatever we generate as 25-cycle goes to Hydro. But of course we're not generating all the time. For the most part we're generating at night and we're also generating—

**Mr Bisson:** You're just there for peak power loads for Stelco.

**Mr Macdonell:** That's right.

**Mr Bisson:** Gotcha.

**The Chair:** Seeing no further questions, are the members of this committee ready to vote?

Shall sections 1 through 5 carry? Carried.

Shall the schedule carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall this bill carry? Carried.

Shall I report this bill to the House? Agreed.

I wish to thank the applicants and the MPP for the area.

**Mr Macdonell:** We'd like to thank you, Mr Chairman, and your committee.

#### CITY OF BRAMPTON ACT, 1995

Consideration of Bill Pr9, An Act respecting the City of Brampton.

**The Chair:** I would ask the sponsor and the applicants to approach the desk and introduce themselves.

I don't know whether he'll be introducing himself, so just as an aside, I thought I'd mention that we have with us the former MPP for High Park-Swansea, David Fleet. Mr Fleet chaired this legislative committee for several years and is also the author of what is known as the Fleet report, I'm told by the clerk.

**Mr Tony Clement (Brampton South):** My name is Tony Clement, the MPP for Brampton South. Mr Chair, you stole some of my thunder in my introductions, but that's all right. You're the Chair and you're allowed to do that.

I did want to introduce Mr Fleet, and you've indicated his prior life. He is now an exceptionally high-priced lawyer, who is actually very good at his craft. He's one of the foremost experts on property tax law in the province of Ontario and, in my previous life, was quite helpful to me in learning a bit about this area.

To my immediate right is Mr Clay Connor, who is the deputy city solicitor of the law department in the city of Brampton.

Bill Pr9 is an attempt to correct a long tale of woe and misunderstanding which is far too complex for me to even attempt to explain to you. So with the approval of this committee, I would like to pass over to Mr Connor, who can lead you through this and explain the need for the bill.

**Mr Clay Connor:** I'll try not to make it too complex, but in things like this it's the facts that are always the fun part.

This bill relates to a development property in Brampton in the area of Highway 10 and Highway 7. Part of the lands had been scraped and were being prepared for development. They were no longer used for agricultural purposes, so in 1987 the city of Brampton appealed the assessment of this property.

City staff explained to the property owner, the principal of the company, the nature of the appeal. He understood what was going on or what everybody thought was going to be going on. He didn't attend at the Assessment Review Board hearing.



It got to the Assessment Review Board hearing. The assessor, as is their wont, stood up and made a recommendation: "This is what the assessment should be." The Assessment Review Board chairman agreed with that, made his decision based on that. Everybody went home.

Then, a few months later, the taxpayer got the tax bill and figured something might be amiss. Investigations, through Mr Fleet's office, with the assessment people showed that in fact things were amiss. There had been a major error in the assessment factor of the area of the property, which resulted in the taxpayer being liable for taxes of a little over \$100,000 more than they should have been.

1050

Now, by the time this came to light it was too late to appeal the ARB decision. It was too late to apply under section 442 of the Municipal Act for a refund of taxes because of an error, and section 443 was also not available because of what I'd like to call a legal catch-22. Under section 443 you can go back and correct errors for the previous two years, unless the assessment in question was the subject of an assessment appeal, which of course it was because that's where the mistake was made. So we were caught in a catch-22; we couldn't just refund the taxes. Our position with the applicant was if we could think of a legal way to do it where the city of Brampton would not be on the hook for anything more than what our proportionate share of the tax overpayment was, then we'd do it.

So lawyers being what they are, the applicant's solicitors thought of a legal means. They brought an application in the Divisional Court naming the city of Brampton. We've put that on hold pending this private bill application, which we hope will sort everything out. It will put the assessment back to what it should have been in the first place and put all the relevant parties in the same position that they would have been in had this mistake never occurred. We're asking your support in that respect.

**The Chair:** Any further comments from the applicants? Are there any other interested parties in the room who wish to comment? We'll also record questions. At this point, I would ask the parliamentary assistant to speak on behalf of the government.

**Mr Shea:** Obviously, this is correcting the 1987 assessment of a property which has been identified in the bill. An incorrect factor was used to calculate the assessment. The time limit for relief has passed and therein lies part of the problem that we face today. We require some technical amendments to allow for the refund, and the city is willing to make the amendments.

For the record, I have to make it very clear that the ministries—and we have representatives here today, in case there are questions, from Education, Municipal Affairs and Finance—would normally object to such a request because the legislation was put in place, as some members around this table know only too well, to provide some stability and certainty to the assessment base and to the municipal and school board finances. But it is recognized that circumstances in this case are particularly unique and the government therefore has no objection if

the technical amendments are passed to deal with the refunds.

**The Chair:** I would ask committee members—I may have missed some hands—to indicate questions for either the parliamentary assistant or the applicants.

**Mr Pouliot:** Your courage is great. In Brampton you're looking for ways to enact a refund to give people—or clients, some clients—what they should have had long ago. Then you have to pay Mr Fleet. Welcome back, David. From your buildup, it's all warranted. The profession does not come cheap. I mean, you get what you pay for, and in this case you're getting the best of legal advice. Brampton has to undergo, when they open the envelope, some transfer cuts. You're going to give the refund, you're going to pay Mr Fleet and then you're going to get hit, fairly big-time, in terms of a transfer payment. I share in the impasse and the dilemma. You have a lot of problems. I'm not so sure that you are the kind of people in this context I would wish to associate with because you don't have good news written all over you, sir.

Having said this, I will try, on behalf of our party, to cut the meeting short. It never stops to amaze me, though, that from 1987 it takes eight years of process, of playing ping-pong, of addressing a dilemma, commas, periods, phrases, terminology etc. Why did we get into this mess? Is it because of the other honourable profession, which ranks even lower than that profession, us, that we get ourselves into a straitjacket? Personally, I cannot stand to address this kind of endeavour. I did so for years and years up north. We thought those inventions of the devil indeed were dreamed up at Queen's Park by people in business suits who had nothing else to do with their time but to impress people. They've complicated matters. Let's get out of this mess as much as we can. Good luck to you. You shouldn't have had to go through that. That's been going on for eight years.

**Mr O'Toole:** I heard of similar dilemmas when I was on regional and local council. I guess my first question is, I gather there is an overpayment outstanding since 1987 but none of the money has actually been paid because of the appeal; is that the case?

**Mr Connor:** Mr Fleet can correct me if I'm wrong, but it's my understanding that because the property ultimately was developed, the owner did have to pay the taxes so he could give a clear tax bill to the lot purchasers.

**Mr O'Toole:** That's the point I was going to make, because you were saying this occurred in 1987. I gather it was a farm, and when it went from farm use to residential, under some plan of subdivision, it had to be reassessed. That's where the Assessment Review Board came in, looked at it, but it hadn't been developed yet, and said, "It is going to be and it's worth this." Four years later he developed it, but meanwhile he'd paid all the back taxes to give them registered title on the property. Is that kind of the short story, without going into the \$4 million?

**Mr Connor:** Actually, the only problem area was with the year 1987. They were able to use the normal mechanisms to get the assessment to what it should be for years 1988 and on. So it's only a one-year problem.



**Mr O'Toole:** So it's just a one-time thing, before there was a real application. That's first.

Now, where we always had the problem in the municipality I was with was that the municipality only had the ability to make restitution or correction for its portion of the bill, which was usually 20% or something. The region has another 20% and usually the schools are about 60%. We'd give ours back, but then they'd have to go after the other partners. What is going to happen here? Is this going to allow or require the school boards to remit—the biggest portion is theirs, I'm sure—and the region to remit to the applicant the refund?

**Mr Connor:** That's precisely why we're here, the problem that you've identified.

**Mr O'Toole:** They won't give it back?

**Mr Connor:** They weren't specifically asked to. The city took the lead because we were the ones named in the litigation and we're the ones who are responsible for the collection of taxes. But with the particular amendment that is being proposed, it will allow the city to pass the refund, and it will flow through so that the school board and the region would pay their shares.

**Mr O'Toole:** Has that agreement been achieved or is this, by way of this decision today, going to force them to say—there's been consultation?

**Mr Connor:** Both the region and the school board have notice of this. I've talked to staff representatives of both agencies, explained to them the nature of the problem, why we're here and what we're doing, and they didn't indicate any problem.

**Mr O'Toole:** What are the amounts? Is it \$100, \$200, \$1 million?

**Mr Connor:** A little over \$100,000, of which the school board's share would be slightly over half and the region's in the nature of 25% to 30%. I don't have the exact percentages, but that's the ballpark.

**Mr O'Toole:** A \$100,000 municipal bill is 1% of the mill rate, so it's a lot of money, technically. I think you've answered most of my questions.

Now, the province, under the Assessment Review Board that made the decision ultimately that got you here, does it assume any liabilities by this decision? The municipality is going to pick up the costs of legal, which will probably double your bill. Who's picking up the legal and all that? Is that the municipality?

**Mr Connor:** The legal fees to the municipality are my normal salary, because I'm in-house counsel. This relates back to Mr Pouliot's question. The city has one less problem. We don't have to pay Mr Fleet; the property owner is doing that.

**Mr O'Toole:** So in terms of there being any ability to capture any liabilities for the errant decision made by some board, there's no liability on this for the province through its agency, the Assessment Review Board?

**Mr Connor:** None at all. This will settle everything and everybody will go away happy.

1100

**Mr Bisson:** I'm reading the briefing note and I get part of my answer. The bill would allow you to give the

money back to the property owner, but would it also force the school board and the regional municipality to give back their share of what they got out of this? How do you get your money back from them?

**Mr Connor:** It's my understanding that it would just be a setoff, in terms that the next normal amount that we would pay over in taxes to the school board and the region would be deducted by their proportionate share of this.

**Mr Bisson:** But do you need the legislation to do that with the school board or do you need the legislation to give the money back to the property—

**Mr Connor:** Yes, we do. That's why we're here.

**Mr Bisson:** That's what I was trying to—

Just to go back to 1987, the owner of the corporation, was he not notified that this was going before the—it says here in the briefing note that in 1987 you appealed the assessment of the company, "the owners of the subject property. The Assessment Review Board held a hearing of the appeal. No one appeared" from the company. What happened there?

**Mr Connor:** Yes, I touched on that briefly. What had happened was the owner of the company had had some discussion with municipal staff as to what this appeal was all about and was satisfied with the explanation that he got. Had things gone the way they should have gone, there wouldn't have been a problem.

**Mr Bisson:** You didn't think it was going to result in a \$3-million—

**Mr Connor:** No.

**Mr Pouliot:** There's a mechanism here, and I really need your help. You collect on behalf of the school board. When they come back with their figures, you'll go to your constituents, residential, commercial, industrial, and you will cream off the top your portion to address vis-à-vis this issue, and the school boards, which usually don't have reserves, will take a chance, collect on their behalf—will they pass it along to their levy?

**Mr Connor:** I don't know if I can answer that; I'm not sure. I have no expertise in the area of school board finance, and any time I look at the regulations of the Education Act, I cringe.

**Mr Trevor Pettit (Hamilton Mountain):** I just want to verify with you that this whole thing is the result of, basically, as it says here, the staff member from the Ministry of Revenue, the assessor using an incorrect factor; all of this is strictly the result of one little bureaucratic bungle. Is that correct, in effect?

**Mr Connor:** In essence, that is correct.

**Mr Pettit:** In a nutshell, this was because an assessor used an incorrect factor?

**Mr Connor:** Yes.

**Mr Pettit:** I would have to agree with Mr Pouliot then that it seems to me it's awfully drawn out for eight years as a result of a bureaucratic bungle, to have to go through all of these appeals etc, but that's basically it in a nutshell, is it?

**Mr Connor:** Yes.

**The Chair:** Any further questions?

**Mr Joseph Spina (Brampton North):** Just a statement: To bring it down to the basic points, yes, this was a bureaucratic bungle by an assessor, and the fact that it was lying around for eight years—it wasn't just lying around for eight years. As somebody indicated earlier, it was a ping-pong, and the problem was that you had a ping-pong going between three levels of government: the city of Brampton, the region of Peel and the province.

What it boils down to is the simple fact that the financial situation is easily resolved. All parties are prepared to address it: the city is, the municipality is, the school board is. I hardly think it's going to be passed on as an additional levy. By the way, to the other member near me here, I would suggest to you that \$100,000 is a lot less than 1% on our mill rate. We have a far larger municipality than most in the province, so I would suggest to you that it comes nowhere near that. But in any case, I don't think there is a major problem here from the point of view of the province. I would endorse the approval of this particular bill.

**The Chair:** Are members of the committee ready to vote? We will look at section 1 first, on its own.

Shall section 1 carry? Carried.

I would ask Mr Smith, could you inform us of any amendments.

**Mr Bruce Smith (Middlesex):** As the parliamentary assistant indicated, there are a couple of amendments put before the committee.

I'd like to move that the bill be amended by adding the following sections:

"Revision of collector's roll

"(1.1) The corporation of the city of Brampton shall by bylaw as soon reasonably possible after this act comes into force,

"(a) direct the treasurer of the city to revise the collector's roll in accordance with section 1, including striking from the roll that portion of the taxes no longer due and payable by reason of section 1; and

"(b) refund any amounts that are no longer due and payable as taxes by reason of section 1."

**The Chair:** Shall the amendment to section 1.1 carry? Carried.

**Mr Smith:** I guess there are a just a couple of brief items here that perhaps the committee members would be

interested in being advised of. The purpose of 1.1(a) and (b) is, firstly, to allow the city to correct the tax collector's roll by recording the correct amount of taxes and, secondly, to allow the city to make the appropriate tax refund. If there are further questions, I would defer to the parliamentary assistant or counsel.

The second part of that amendment deals with section 1.2 and it reads as follows:

"Refund

"(1.2) The provisions of section 421 of the Municipal Act apply to taxes refunded under section 1.1."

**The Chair:** Any discussion on the second amendment to section 1? Shall the amendment carry? Carried.

As we have done on occasion, combining sections 2, 3, and 4, shall sections 2 through to section 4 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall this bill, as amended, carry? Carried.

Shall I report this bill to the House? Carried.

I wish to thank the applicants and the sponsor.

**Mr David Fleet:** I might take this moment to thank both the Chair and Mr Clement for their gracious comments about myself; and as well Mr Clement for sponsoring the bill; and Mr Spina, to whom I had also spoken at some length about it; and as well to thank, on behalf of my client as well as our firm, the city for its innovative approach to helping resolve the litigation; and the members of this committee; and some old friends I see again—I'm pleased to see you.

For the others, I wish you all the best in your endeavours. I perhaps identify a little bit more than most with the duties on this particular committee, because of my own experience, but I wish you well in all of your endeavours as members.

**The Chair:** Before our motion to adjourn, could I just remind Mr Shea, Mrs Papatello and Mr Pouliot if we could briefly get together for the business subcommittee schedule.

Motion to adjourn?

**Mr Bisson:** That it so be adjourned.

**The Chair:** This meeting is adjourned.

*The committee adjourned at 1110.*



## CONTENTS

Wednesday 29 November 1995

<b>Waterloo County Board of Education Act, 1995, Bill Pr11, Mr Leadston</b> .....	T-25
Gary L. Leadston, MPP	
George Ambeault, administrator of financial services, Waterloo County Board of Education	
<b>Canadian Niagara Power Company, Limited Act, 1995, Bill Pr12, Mr Hudak</b> .....	T-26
Tim Hudak, MPP	
Harry Macdonell, chairman, Canadian Niagara Power Co Ltd	
James Fretz, vice-president and general manager, Canadian Niagara Power Co Ltd	
<b>City of Brampton Act, 1995, Bill Pr9, Mr Clement</b> .....	T-30
Tony Clement, MPP	
Clay Connor, solicitor, city of Brampton	
David Fleet, solicitor, LDASK MBC Corp and Bramway Properties Ltd	

## STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

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**Vice-Chair / Vice-Président:** Smith, Bruce (Middlesex PC)

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\*Boushy, Dave (Sarnia PC)

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\*O'Toole, John R. (Durham East / -Est PC)

\*Pettit, Trevor (Hamilton Mountain PC)

\*Pouliot, Gilles (Lake Nipigon / Lac-Nipigon ND)

\*Pupatello, Sandra (Windsor-Sandwich L)

Rollins, E. J. Douglas (Quinte PC)

Ruprecht, Tony (Parkdale L)

\*Sergio, Mario (Yorkview L)

\*Shea, Derwyn (High Park-Swansea PC)

\*Sheehan, Frank (Lincoln PC)

\*Smith, Bruce (Middlesex PC)

*\*In attendance / présents*

**Substitutions presents / Membres remplaçants présents:**

Leadston, Gary L. (Kitchener-Wilmot PC) for Mr Hastings

Spina, Joseph (Brampton North/-Nord PC) for Mr Rollins

**Clerk / Greffière:** Freedman, Lisa

**Also taking part / Autres participants et participantes**

Ministry of Municipal Affairs and Housing:

Shea, Derwyn, parliamentary assistant to the minister

**Staff / Personnel:**

Klein, Susan, legislative counsel

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First Session, 36th Parliament

## Assemblée législative de l'Ontario

Première session, 36<sup>e</sup> législature

# Official Report of Debates (Hansard)

Wednesday 6 December 1995

# Journal des débats (Hansard)

Mercredi 6 décembre 1995

Standing committee on  
regulations and private bills

Comité permanent des  
règlements et des projets  
de loi privés



Chair: Toby Barrett  
Clerk: Lisa Freedman

Président : Toby Barrett  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
REGULATIONS AND PRIVATE BILLS

Wednesday 6 December 1995

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS  
ET DES PROJETS DE LOI PRIVÉS

Mercredi 6 décembre 1995

*The committee met at 1009 in committee room 1.*

**The Chair (Mr Toby Barrett):** Good morning, everyone. I wish to welcome you to this meeting of the standing committee on regulations and private bills for Wednesday, December 6, 1995.

Before we call the first bill, just an information item for the committee arising from a request from Mr Hastings. This sheet of paper has been distributed with respect to legal costs for this committee, costs of the legislative research service in providing legal opinions on regulations for this committee. There's a memo on your desk.

Secondly, following the last regular meeting of this committee, our business subcommittee held two meetings, and the business subcommittee can report to the committee at the end of our proceedings today.

WATERLOO-GUELPH  
REGIONAL AIRPORT ACT, 1995

Consideration of Bill Pr38, An Act respecting the Waterloo-Guelph Regional Airport.

**The Chair:** I call the first bill, Bill Pr38, An Act respecting the Waterloo-Guelph Regional Airport, and I ask both the sponsor and the applicants if they could come forward to the table, please. I would ask the sponsor of the bill, MPP Sheehan, to briefly introduce himself and I would also ask the applicants if they could briefly introduce themselves to the committee.

**Mr Frank Sheehan (Lincoln):** Mr Chairman, I'm here to speak in favour of this bill on behalf of Gary Leadston, who is the member and cannot attend today. The Waterloo-Guelph Regional Airport Act is necessary to allow the regional municipality of Waterloo to take over Guelph's share of that airport. Effectively, what it's going to do is eliminate a special-purpose body and consolidate the management and the operation into the corporate structure of the region. It'll facilitate its promotion and development as an asset to business in that area.

Speaking on behalf of this bill will be Connie Peterson Giller, who is the regional municipality of Waterloo's solicitor and also commissioner of corporate resources; and Lois Payne, who is the city solicitor for the city of Guelph. I will let the ladies do their job.

**Mrs Connie Giller:** I'm Connie Giller from the regional municipality of Waterloo.

**Ms Lois Payne:** I'm Lois Payne from the city of Guelph.

**Mrs Giller:** Basically, as outlined, the requested legislation will abolish the Waterloo-Guelph Regional

Airport Commission and vest all of the assets, as well as liabilities, in the hands of the regional municipality of Waterloo.

The region has been paying about 80% of the cost of both the operations and capital budgets of the airport for many years, while Guelph has been paying a 20% share. We have found increasingly that a large number of resources within the region—legal, engineering, planning, human resources, finance—are required to support the operations of the airport, so we felt that we could operate the airport more efficiently if it could be incorporated directly within our administration.

**Ms Payne:** The city of Guelph supports the position outlined by Mrs Giller. The airport is not directly within the geographic boundaries of the city of Guelph; it is within the region of Waterloo. There's no direct benefit to the taxpayers of the city of Guelph in continuing to participate in the operation of the airport.

**The Chair:** Are there any other interested parties who wish to speak to this bill? Hearing none, I would ask the parliamentary assistant to the Minister of Municipal Affairs for any comments on behalf of the government.

**Mr Derwyn Shea (High Park-Swansea):** This is a very straightforward act and the government has absolutely no objections to it proceeding. Both municipalities are particularly supportive, and that should be noted.

**The Chair:** I would ask committee members, are there any questions or comments?

**Mr John O'Toole (Durham East):** Just a general question on funding or revenue: Do you currently receive any revenue from either the province or the federal government?

**Mrs Giller:** There would be some revenue received from the province and the federal government, yes.

**Mr O'Toole:** Are you familiar with the proposed changes in Bill 26 that would restrict funding to municipal airports?

**Mrs Giller:** Yes, and in discussions with our engineering department staff—that would be the department which would be responsible for the airport—they've indicated that the impact of the reductions would not be of great significance to the operation of the airport. It will be subject to a review, as well as other departments within the region, over the next number of months.

**Mr O'Toole:** Just on that bottom line, I commend the region for taking that overall coordination of that important part of the region.

What is the overall budget, both the operational and capital type?



**Mrs Giller:** That is contained within the compendium.

**Mr O'Toole:** I didn't look at it. It doesn't give me a number. It's not that critical, is it? I mean, it's difficult to get.

**Mrs Giller:** The total in 1995 attributable to the region was \$399,000 and the city of Guelph's share was \$77,000; that's the operating budget.

**Mr O'Toole:** Okay. I guess the future is that they'd still be levied through the regional assessment on the local municipality share?

**Mrs Giller:** Yes.

**The Chair:** Are there any further questions to the applicants or to the parliamentary assistant?

**Mr Shea:** Take the vote.

**The Chair:** Are the members of the committee ready to vote? Following our standard practice, we can collapse sections 1 through to 4.

Shall sections 1 through to 4 carry on this bill? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report this bill to the House? Carried.

**The Chair:** I wish to thank the applicants and the sponsor.

**Mrs Sandra Papatello (Windsor-Sandwich):** Chair, does the PA have a vote on this committee?

**The Chair:** The question is, does the PA have a vote on this committee?

**Clerk of the Committee (Ms Lisa Freedman):** The parliamentary assistant is a member of the committee and can vote.

#### CITY OF YORK ACT, 1995

Consideration of Bill Pr44, An Act respecting the City of York.

**The Chair:** We'll move on to our next order of business and I would call Bill Pr44, An Act respecting the City of York; sponsor Mike Colle, MPP. We have the sponsor and the applicants before us. I would ask both sponsor and applicant to briefly introduce yourselves first.

**Mr Mike Colle (Oakwood):** I'm Mike Colle, MPP for Oakwood. With me I have the solicitor for the city of York, Mr George Bartlett. It is my pleasure to introduce Bill Pr44. The city of York is making an application for special legislation to enable it to establish a tax deferral program for senior citizens who qualify, and I would just essentially leave it up to Mr Bartlett to give the basic details of this bill.

**Mr George Bartlett:** Thank you, Mr Colle. The details are fairly straightforward. The proposal and the act would enable the city to establish a tax deferral system for seniors who are in receipt of a guaranteed income supplement and who own their properties. The actual amount isn't specified in the bill; that would be left to council to determine. It is a deferral scheme as opposed to some existing legislation which allows an outright grant. Under this legislation, the payments would be deferred until the seniors pass away, but would survive to

the spouse as long as the spouse resided in the residence to which the tax deferral relates.

**The Chair:** Are there any other interested parties who wish to comment on this bill? Okay, I would first ask the parliamentary assistant to the Minister of Municipal Affairs for any comments on behalf of the government.

**Mr Shea:** It's a standard request which I think is deserving of support. The government has no objections. Precedents: The city of North York and Mississauga being two classic cases in point.

**The Chair:** I would turn to the committee for questions, beginning with Mr Pouliot.

1020

**Mr Gilles Pouliot (Lake Nipigon):** Thank you kindly. Good morning and welcome. Well, let's face it, you're the house of benevolence. Who wouldn't appreciate the kindness. This, your gesture of good omen, may be a sign of things to come, for the seniors will need all the help they can get. You, sir, have recognized that through the sponsor of Mr Colle. So it's most welcome.

You've mentioned that if you're the recipient of a supplement, as we all know, you have difficulty to make ends meet. It's competitive out there. So you apply and you qualify for a few dollars more. What about if you're a tenant? Do you have a policy? Miss Jones doesn't own a house, but Miss Jones is 74 years of age and her refuge is a small apartment, and she is indeed a recipient of the supplementary allocation so she can be like the others, she can buy food and pay her rent. But she doesn't own property. Does she qualify under the program, and if not, what is the philosophy why not?

**Mr Bartlett:** The legislation that we're seeking only applies when the owner is the senior and resides in the property and meets the test. That's the extent of the legislation which council is seeking from the province.

**Mr Pouliot:** I am not philosophically—in spirit, who could not be in favour? I share your vision, your request of my colleagues. But with respect, is it not ironic—and I know it's much easier for me to say this than you, sir—that a property owner in North York—I mean, I too read the papers. I live way up north, you see, and my wife and I can only dream of being property owners in this very rich municipality. Yet, if we could not, maybe we would have access—

**Mr Mario Sergio (Yorkview):** Gilles, it's the city of York; it's not in North York.

**Mr Pouliot:** I mean, it's York. You see, that proves—

**Mr Sergio:** It's Bob Rae's country.

**Mr Pouliot:** I've been to Bob Rae's place, and it's a fine location indeed. We were all there; we were all accommodated when we were 74 members.

**Mr Shea:** Come on, Gilles, cut to the chase.

**Mr Pouliot:** The thing is, if you're renting, what is the difference? It seems to me that if you're renting in York, your needs would be just as much as if you owned property; in fact, a priori, they might be more so.

**Mr Colle:** If I could just briefly answer, this is the city of York, and we have very small, modest homes. As the parliamentary assistant, who's a neighbour of ours,

will know, these are homes that have maybe 18-foot frontage and they're bungalows, and these are people of very modest means. This is not North York, where I think people are a bit well off. But we don't really attempt to try and solve all problems of inequity here. It's just a start, it's just a small step, because we have a lot of seniors who live in these small homes who would like to stay in them and not move into government-subsidized homes. They want to stay and be part of the neighbourhood, and that's what we're trying to encourage.

**Mr O'Toole:** I guess my question is a little more directed than my friend Mr Pouliot's. My understanding of this is that it's really allowing the city to take a lien or a chattel against the property. Is there a legal registry of this, it's legally on the title of the property and it's sort of like an accumulated debt until such time as they either sell or pass on?

**Mr Bartlett:** That's correct. It would be registered on the title in the registry office or the land titles office.

**Mr O'Toole:** The only question I have is, in the event of these people that are getting on in years and competence, with the Consent to Treatment Act, what if I, for example, contested it? Is there any contestability or is it a legally executed document? What if the person has got Alzheimer's or some early stage of senility or whatever? Who's the guardian on behalf of the property owner? I know you've got three years before the city can actually go in and try to get the property for taxes. So they could be in arrears going into this by a year or two, right? The property owner could be in arrears on taxes for two years before you start this action?

**Mr Bartlett:** Before we grant the lien?

**Mr O'Toole:** Yes.

**Mr Bartlett:** Or before we take action under the lien? Yes, theoretically it's possible that when people apply for the tax credit they may be in arrears of taxes. In that case, the credit would apply against the outstanding taxes initially. From experience, seniors are very reluctant to allow their properties to fall into arrears, probably more so than others. Theoretically, it's a possibility, yes.

**Mr O'Toole:** My question is just this: With the consent to treatment, there are those powers of attorney over property. In my case, if it was my parents who were in the home and I was the—do I have any right to contest the decision?

**Mr Bartlett:** Part of the arrangement is, and what the legislation requires is, that there be an application. A signed document would be registered on title and we'd have to be satisfied at that point in time that the person we're dealing with is competent to sign that.

**Mr O'Toole:** Who pays the legal fees? The property owner or the city?

**Mr Bartlett:** The city pays its own legal fees and the registration costs.

**Mr O'Toole:** So there's no pass-through of legal fees of both parties to register title instruments in formal legal costs to the property owner?

**Mr Bartlett:** That would be at our expense.

**Mr O'Toole:** That would be all at the municipality's expense. That's very kind. I like the sentiment of the

legislation or bill. I think it says the right things. Anyway, thank you.

**Mr E.J. Douglas Rollins (Quinte):** Two things of concern: The percentage of the total taxes that you would be allowing them to defer; that would be up to the city, you say, to make that? Is that on a percentage of all or would each property be dealt with under certain circumstances?

**Mr Bartlett:** The legislation requires that we treat all people who qualify similarly. So it would be a uniform credit to all who qualify. The actual amount of the credit will be determined by council, but in each year, when they—

**Mr Rollins:** An amount or percentage?

**Mr Bartlett:** It provides for an amount. It's not tied to a percentage of the taxes; it's tied to a dollar amount.

**Mr Rollins:** In the event that some of these people are getting older, and in the event that they were to die and leave this property to somebody else who's over the age or is on subsidy, does that thinking still remain that the tax credit carries on or not?

**Mr Bartlett:** If it's to a surviving spouse, then it would carry on.

**Mr Rollins:** I understand that, but if it was, say, to a surviving brother or something at that time? Because they could be people you're dealing with who are fairly aged. Like, a person in their 90s could well be leaving their property to somebody who is only 70 or 72 years old and is still in the same circumstances, with probably little or no means of income.

**Mr Trevor Pettit (Hamilton Mountain):** It would never end.

**Mr Rollins:** That's right.

**Mr Bartlett:** It would apply to the spouse only. If the elderly child who received it qualified under the legislation, they could submit a similar application.

**Mr Rollins:** In the meantime, it would have to be paid off?

**Mr Bartlett:** Yes.

**Mr Rollins:** And that payoff period of time would be probably immediately, or would there be any consideration given to those people?

**Mr Bartlett:** There's no provision for delaying that at that point in time.

**Mr Sergio:** To the solicitor, just to clarify the last point over there, isn't it, whenever the property changes hands, regardless if it's passed on to a member of the family or it's sold, that then the lien would have to be lifted or the encumbrance would have to be lifted?

**Mr Bartlett:** Unless it's to a spouse.

**Mr Sergio:** Unless it's to a spouse, but if the spouse side is gone and the house is sold or passed on to other than one of the spouses, if it is passed on to one of the heirs, members of the family, then automatically that would have to be paid?

**Mr Bartlett:** Yes, the payment becomes due on any transfer of ownership of the real property.

**Mr Sergio:** Exactly. I would hope that answers the question.



**Mr Dave Boushy (Sarnia):** I have just a brief question; I'm trying to find it in the bill, but I can't. When the money is paid back to municipalities, is it paid back with interest or without interest?

**Mr Bartlett:** No, we're not paying money back. After they pass away, we will be collecting money.

**Mr Boushy:** With interest?

**Mr Bartlett:** Without interest.

**Mr O'Toole:** No, no. Pardon me, Mr Chair; I believe what happens in taxes is the accrual includes interest. The municipality has the right under the act to accrue interest on outstanding debt, be it back taxes or whatever. So that would be an incurred cost by the municipality. Pardon me for interrupting, but that's the way it currently reads.

1030

**The Chair:** Mr Boushy, did you have a further supplementary?

**Mr Boushy:** I wonder if anyone can tell me, is this true? Would the interest be paid along with the amount owing? Does anybody know?

**Mr Colle:** There's no intention of charging interest.

**Mr Bartlett:** This legislation stands on its own.

**The Chair:** I'll ask the parliamentary assistant maybe to give us some information.

**Mr Shea:** In this case, the city of York is not putting interest in. That is the city of York's decision. Some other municipalities might. That is a discretionary factor for each municipality. In this case, the city of York has chosen not to do that, which makes it even, in that sense, more generous for the seniors. I think the city of York should be complimented in that regard.

**Mr Sergio:** If I may add, this is being done by other municipalities as well, and the intent is that it is not to penalize afterwards, once you're trying to help one of these needy people. It is no help if you say, "Okay, we need \$100 now," for whatever reasons, "and a few years later we're going to owe you \$200." This is not the intent of the request; this is not the intent of the move on behalf of the various municipalities. It is very minimal. I don't think it would cause any problem for any municipality. It is to help some of these needy people at a very particular time and say, if it's \$100, if and when, you owe us \$100. Municipalities have been assuming the expenses to register and do all the legal work and stuff like that.

This was born out of, I believe, one of the provincial directives from years ago to try and assist; and it creates some work, if you will, in residential homes and stuff like that.

**Mr Pouliot:** They can foreclose.

**Mr Sergio:** They can foreclose; for a measly few hundred dollars they won't foreclose.

**The Chair:** Should we go on to a new question?

**Mr Pettit:** I wonder if you can give us any indication of, let's say, on a 1995 basis the total dollar figures that might be involved here in terms of deferral.

**Mr Bartlett:** Our treasurer did do a report and my recollection is it was anticipated that it be somewhere in the order maybe of \$11,000.

**Mr Pettit:** That's \$11,000 total?

**Mr Bartlett:** Total, if we copied the pattern on the rates that—

**Mr Pettit:** What might the average property tax bill be in this region, this city?

**Mr Colle:** About \$1,800?

**Mr Pettit:** So what you're saying is roughly we're looking at five to six households, or what are you saying, if it's \$11,000?

**Mr Bartlett:** No, the dollar amount of the grant or the deferred taxes wouldn't amount to that, the full amount of the taxes. It's a fixed amount which probably could be in the order of something, \$600 perhaps, per household. The treasurer was extrapolating from experience in Etobicoke, where a similar grant system is in effect.

**Mr Pettit:** So it's not the whole tax bill, then.

**Mr Colle:** It's a fixed portion of it. I know in the North York experience, I think it was Mayor Lastman was explaining one day, many seniors are very reluctant to do this, actually. They don't like the idea of having a debt on their property, so it is not something that they take lightly. That is a controlling factor right off the bat, and that's been the North York experience, I recall.

**Mr Pettit:** But it's optional anyway.

**Mr Colle:** Yes.

**Mr Bartlett:** Yes, they have to apply.

**The Chair:** Any further questions to the applicant or to the parliamentary assistant? We did have Mr Boushy. You don't have a second question?

**Mr Boushy:** No. Actually, I'm very much interested, because my city's coming down with the same request in about a month, whatever. I'm really interested to find out if actually the municipality would be paid back. Does such a bill allow a municipality to charge interest on the money owing?

**Mr Shea:** It's clear in the bill.

**Mr Sergio:** It's up to the individual municipality.

**Mr Shea:** This bill does not, but the empowering legislation is discretionary.

**Mr Boushy:** This bill does not?

**Mr Shea:** No, this bill does not. As I go through it again, the city of York has determined not to access that section that gives them the right to charge interest. Some municipalities do, like Kingston; others do not. Each municipality may make its own decisions.

**The Chair:** Thank you for the questions. Is our committee ready to vote?

**Mr Shea:** Mr Chairman, as we're ready to vote, can I just respond to my distinguished colleague from Nipigon? The inference of his opening and very eloquent comments would leave us with the impression that this may be some new mechanism to respond to some new economic circumstance. As some of us recognize, indeed this provision goes back to at least 1988 and reflects real concern on the part of many municipalities to assist seniors who are in various straits, and I'm sure that's what my colleague wanted to point out, that it goes back some distance for those purposes. Certainly I think we

should now vote on this one and help the city of York do what they're doing. I appreciated the comments of Mr Colle.

**Mr Pouliot:** So we're all speaking, sir, with respect, on behalf of the 20 or so recipients. I did not imply that it was a reverse mortgage of any sort, without interest in this case. I didn't want to take anything away from the benevolence of the city of York.

**Mr Shea:** No? Oh, good.

**Mr Pouliot:** I just find it even more difficult to equate to an 18-foot lot.

**Mr Shea:** Welcome to the city, Nipigon. Now you know how we feel about market value assessment.

**The Chair:** Thank you for those comments. Are the members ready to vote? Again, following procedure, we would combine section 1 through to section 10.

Do sections 1 through to 10 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Carried.

I wish to thank the applicant and the sponsor.

I would ask the committee to bear with us for a five-minute recess before our business subcommittee reports. The clerk would like to speak with one member of the subcommittee with respect to a recommendation that we will be making in five minutes.

*The committee recessed from 1037 to 1049.*

#### SUBCOMMITTEE REPORT

**The Chair:** Thank you for your patience. We're back from recess and we are now distributing a report of our subcommittee, essentially a recommendation for your consideration.

At this point I'll read this recommendation into the record, and I would ask the clerk to entertain any questions or explanations on this report of the subcommittee. I quote:

"Your subcommittee recommends that all applications for tax exemptions be reviewed by the subcommittee to determine when they will be scheduled and that the subcommittee will instruct the clerk with respect to their scheduling decision. If the subcommittee is not unanimous in its decision, the applications will be considered by the full committee in the normal course of scheduling."

Motion to move acceptance of the report?

**Mrs Pupatello:** I move the report.

**The Chair:** Any discussion on that motion?

**Mr O'Toole:** Can I just get the parliamentary assistant or whoever to sort of give me a handle on what it is we're talking about here in more layman's terms?

**The Chair:** Yes. I might ask either the clerk or the parliamentary assistant just to flesh this out a bit for us.

**Mr Shea:** Go ahead. I don't mind talking about it, but go ahead.

**Clerk of the Committee:** There was a motion passed last week that the subcommittee look at the whole issue

of tax exemptions, and I'll let the parliamentary assistant discuss that actual issue. When he's finished, I can discuss what this means procedurally for the committee.

**Mr Shea:** That was marvellous. I've got to watch you more carefully.

**Mr O'Toole:** It's that easy—

**The Chair:** Mr Shea.

**Mr Shea:** Oh, what a dance. Okay.

**Mr O'Toole:** That's sort of like what the Premier does.

**Mr Shea:** All right. I like dealing with professionals.

The issue is obviously one of applications for tax exemptions that come forward to this committee which in the past have given the Legislative Assembly the right and responsibility to decide whether or not to grant tax exemptions which have impact upon lower-tier budgets, both city and regional budgets.

They may or may not have come forward—I'm speaking of the applications now—with the approval of all the parties. For instance, a city council may put forward an exemption request that is not acceded to by the region or by the school board and what the subcommittee is persuaded would be more appropriate would be to suggest that the approval for exemption rests with the budget centres involved.

For example, any application for exemption can be granted by bylaw, both at the local and at the upper-tier levels of government and in terms of the school boards. It can now be done in a way that allows the exemptions to be reviewed because if bylaws are passed, they can also be opened and reviewed for reconsideration where necessary or where the council or the school board deems it appropriate.

In many ways it's a suggestion that these kinds of applications really don't need to come forward, probably should not come forward even in an appropriate constitutional sense, and I know the Minister of Municipal Affairs is, as we see not only in Bill 26 but elsewhere, attempting to ensure that responsibility and authority for decision-making is moved down into the municipalities.

It puts the municipality in the position of being able to make the clear determination, "Yes, you will be exempted," end of story. They don't have to go on to Queen's Park to get their imprimatur because the city councillors or the trustees are the ones who have to stand before the electorate. They are the ones who have to be responsible for their budgets, and the old-fashioned relationship between Queen's Park and municipalities can go through changes.

In that sense it is probably appropriate to say that unless there is some unforeseen circumstance, many of these applications can be resolved locally by the city council deciding yes, they will or will not. A school board may say, "No, we don't want to," but a city council may say, "Yes, we do want to." There is no conflict there any longer because you may have it going both ways. A city council may exempt, a school board doesn't have to exempt, so at least you know that the applicant is going to receive that portion of the tax exemption that that level has decided to give them.



In that regard, it cleans it up. Instead of coming forward here by saying, "We'll also wrestle with it and determine what's going to happen to your tax base and to your revenue stream," it seems more appropriate to let the local governments make their own decisions and rest with the consequences of those decisions.

**Mr Sheehan:** Just a clarification. For example, in St Catharines the YMCA is applying for an exemption from a portion of the tax or all of the tax. So all we're going to say is, the city council can make it, but prior to this if we don't do this, they'd have to come up here and get that exemption here?

**Mr Shea:** Prior to this they could come forward whether they had city council's approval or not. What has been happening increasingly is that the Legislative Assembly has been saying, "Do you have these approvals? Let me see what you've got. Don't even come forward if you haven't got them." But they can come forward. They have a right to come to this committee.

I think what the subcommittee is beginning to say is, "Instead of taking the time of this committee with applications that come forward that don't even carry the imprimatur of any level of the lower governments, that really is just wasting our time and not only is it putting us in a difficult spot, but it is embarrassing even to the other tiers."

**Mrs Pupatello:** I was just curious about the writing of the report while I moved it. We could have included that information be reviewed and determine whether they'll be scheduled, if they meet the requirements of approval by municipality and approval by school board. Did we not see that it was important to move that? That was really the meat of the discussion.

**Clerk of the Committee:** This is totally amendable, so we can amend this to whatever you want. It's drafted this way to take in the possibility of giving the subcommittee a little flexibility in terms of what they look at with respect to the various bills.

They may want to change certain requirements that they have before a bill will be scheduled. If we actually put them into the motion, it would tie the subcommittee's hands and require us to come back to the committee. It's just drafted broadly so the subcommittee can decide amongst themselves what they want to look at with respect to every application.

**Mrs Pupatello:** Is there some kind of a reg written somewhere that will instruct the subcommittee that in fact we're determining that it will go forward if it meets those two things? It's not written anywhere.

**Clerk of the Committee:** It's going to be at the subcommittee's discretion in terms of what it looks at to decide whether the bill will be scheduled or not.

**Mrs Pupatello:** I just see we just moved that to the subcommittee level now. The very discussions we have at committee have just been moved to subcommittee. So that's why we decided today that we would determine that it would go forward if it met those two conditions. I assumed that would be part of the condition that we are writing somewhere.

**Clerk of the Committee:** What we can do is draft a further motion. Once we actually put down in writing, I

can meet with Municipal Affairs and put down in writing exactly what criteria it is going to have to meet, we can then pass that at a later date. As I said, it's drafted this way to give the subcommittee a little bit of flexibility.

**The Chair:** Would that be okay in the interim?

**Mrs Pupatello:** Yes.

**Mr Boushy:** I just want to clear my mind. Does the subcommittee, according to this motion, have the power to prevent an application coming to this committee? I just want to make sure.

**The Chair:** I'll ask the clerk to respond.

**Clerk of the Committee:** I'll explain this motion from a procedural point of view. It seemed to be the wish of the subcommittee that in essence the committee not consider these bills unless they met very specific criteria.

According to the standing orders, if the applicants meet criteria that have nothing to do with upper-tier municipalities okaying things, they have a right to come to the committee. We can't pass any type of motion to tie the committee's hands here and not allow people to go forward if they meet certain criteria.

The only procedural way around this was—as a clerk, I take my scheduling instructions from the committee or the subcommittee or the Chair, and what this is doing is the subcommittee will review these applications. They'll see if they meet various criteria and then will tell me whether to schedule or not schedule these applicants. These applicants will also be informed in advance what the criteria are.

What's happening now is many of these applicants are incurring major costs. They have to advertise for four weeks in local newspapers, which may be the *Globe* or the *Star*. They have to pay \$150. They have to pay for the cost of the bill, and it's running into thousands of dollars for an application that may not meet a favourable reception at this committee. We just like to be able to, one step ahead, give people some type of indication before the costs are incurred.

**Mr O'Toole:** It's a good explanation. I think if we're not delaying the proceedings here, just to educate ourselves, this is a municipal taxpayer, either residential or commercial, or institutional for that matter, that has in last resort the right to appeal to his committee for an exemption. What we're trying to do is set criteria by which they would qualify before they spent any money advertising for public notices and stuff like that the costs that are incurred and then, in the final analysis, this committee may not side or agree with them.

1100

Looking at it from a municipal point of view, and I hope no one takes exception to this, with some of the changes in the omnibus Bill 26 and the municipal lower portion—who are the tax collector, by the way; they're always the tax collector—that's really talking about their revenue. I firmly believe that this should be, if the subcommittee's looking at this, referred to that, because we do talk in there about fees, the ability to make revenue decisions being where the revenue problem is, and that varies according to the province. Lots of municipalities have the need to keep that commercial facility, whatever it is, there.



I've sat there and heard and we never, ever granted an exemption, because once you grant one, you're done. You know what I'm saying? What I'm saying is that if that empowering legislation snipped it right there—it's completely within—and have some appeal process within that at the lower tier, I'd prefer not to deal with it because I do not feel we should be in the position of stopping revenues, other than provincial, to lower-tier municipalities.

**Mrs Papatello:** John, you would have been more comfortable if we had identified the rationale of the restriction to this committee, the approval of municipal—

**Mr O'Toole:** Yes. Which I'm not familiar with. If there are some external criteria, let's say that there has been some appeal or dialogue at the lower-tier level and still a failure to recognize the exemption, what else do they do? If they came here, I would say, "Look, we're talking about somebody else's revenue here."

**Mrs Papatello:** What has happened in the past, which is what brought it to the floor, is that this committee would approve it in certain cases even if the municipality had not granted it, so there lies the inequity.

**Mr O'Toole:** I would not agree with us overruling the lower tiers' external revenues. It's just not the proper protocol.

**Mr Shea:** That's what we're saying. That's exactly what we're saying.

**Mr O'Toole:** Let's hope that we don't necessarily have a screening criterion. Let's be the complete judgement of last resort, absolutely. There should be an appeal process internally.

**Mr Shea:** But in fairness, that is something that the Municipal Act is addressing right now and it will be coming forward. Having said that, in the interim we have a reality to wrestle with and the reality is that the person who is responsible for the budget should have the say of what happens to the revenue stream and that is indeed the philosophy in Bill 26, that is the philosophy of the minister, that is the—

**Mrs Papatello:** That's not correct entirely.

**Mr O'Toole:** It is. There's a lot of talk about revenue in there.

**Mr Shea:** It is in the terms of putting the responsibility down.

**Mrs Papatello:** Bill 26 deals with 150,000 items, not necessarily all driven by that principle.

**Mr O'Toole:** Treat each one of those schedules separately.

**Mr Shea:** In terms of the Municipal Affairs philosophy, that's when we're discussing it.

**Mrs Papatello:** But all of that is just frankly—we're getting into rhetoric now.

**Mr Shea:** What we're trying to do is get that down so we say: "That's where the responsibility rests. It is your revenue stream. You make the decisions. You shouldn't be going to Queen's Park to ask for it." That's all.

**Mr O'Toole:** I'd support that approach, if that's what the subcommittee's ultimate objective is.

**Clerk of the Committee:** I have just one thing, if the committee wants, in terms of amending this to deal with Mrs Papatello's concern. We could amend the subcommittee report to read:

"In making the decision, the subcommittee shall consider the following criteria: that the organization owns and occupies the property; that the organization must be a registered charity under the Income Tax Act; that the organization must have consent of the upper tier and school board for exemptions on levies; and that the exemption apply to property taxes only and the exemption is granted through a municipal bylaw."

Those are the criteria that the subcommittee looked at. If it's the wish of the committee to actually put that in the motion, we can, or we can leave it out.

**Mrs Papatello:** Is the condition always included in the municipal bylaw that it has school board approval?

**Mr Shea:** No, you can come forward without school board approval, because the current system now allows things now to be processed with somebody approving and somebody not approving, and that's okay. The applicant—and you and I were talking about that a little earlier, by saying that it may well be at least better you have this than have to wait to try to get the whole thing. That's the way we would still be empowered to do that.

**Mr O'Toole:** I can't support that. Perhaps, Sandra, you could direct me. Having been both a school trustee and the other councillor part, what happens is if the municipality makes an exemption, they do not pay each tax bill. The boards levy the municipality and pay them the million dollars and then they go about collecting taxes. Any defaults, the municipality takes the hit.

Therefore, what I'm suggesting and I've always thought—maybe I'm making this more complicated—is if it's a 60-40 split or a 60-20-20, depending if you're regional—that's usually the split for the revenue—then technically all of those should be pass-throughs to the equal partners, meaning if I give an exemption, 60% of that revenue reduction goes to the school board, 20% to the region and 20% to the local municipality.

**Mr Pouliot:** It's usually about that.

**Mr O'Toole:** Yes, that's about what it is across the province.

**Mr Shea:** I don't understand where that's different from what we're suggesting. What we're saying right now is there are four players in many cases, not in all but in many cases. We're talking about the local council, the regional council, the local school board and there may be a senior school board, depending on the municipal structure. Let's assume there are four.

We know what their relationships are in terms of their tax equations, that's no mystery. The fact is if the city council grants exemptions but the upper tier doesn't, if the school boards don't and so forth, then it may be that the applicant gets only that reduction to which the approval has been granted. City council cannot grant approval for the exemption on behalf of the school board or on behalf of the regional government. Each level responsible for its own budget has to give its approval. That's the way it works now.



**Mr O'Toole:** Well, not totally, but anyway.

**Mr Pouliot:** On the same subject matter, I often wonder, regardless of administration, how we got into this kind of situation. Was it because some well-intentioned bureaucrat or some politician, or with some politician, wanted to establish their little fiefdom?

I cannot imagine that the Little Angels House of Benevolence seeking a tax exemption would not have the blessing, the acquiescence of both the general purpose, the local government, and of course the school board. We preach for our parish. I was the mayor of our small village for many years. Picture this: that decisions would have been made by others in Toronto and we would lose by way of an exemption our tax revenue. In our case we would have said, "Okay, if you need help, we'll give you a grant, but damn it, you're going to pay your taxes."

You're right, Mr Shea, that you do create, indeed, the precedent. What kind of business are we doing in the affairs of others? I find this very unusual, and I know those things tend to be dated, they accumulate over years, and we can't screen.

The philistine piece of legislation, Bill 26, that reads like the Internet, will no doubt have enough spear carriers to put it over the hill. It is so massive—I'm learning something here—that there has to be some good thing in it; not too, too much. But again, no matter how abrasive and how dictatorial that piece of legislation is, maybe somewhere one of the small paragraphs of that kind of documentation will address this.

**Mrs Pupatello:** You should have heard him yesterday.

**Mr Pouliot:** Attends une minute, toi. It is an invitation to sin of the highest order. What business do we have—and now we have to weasel our way until the philistine package gets steamrollered through the House, because if people follow process, which is what we have to live with, they have access to an audience. They come and see us—

**Mrs Pupatello:** Which they couldn't have done without your change of the rules, just for the record.

**Mr Shea:** Do we really want to get into this? I'd be happy to engage in this kind of dialogue, I'll tell you, for a few hours, folks.

**The Chair:** Mr Pouliot, any further discussion?

**Mr Pouliot:** Madame, focus your attention on these. There are more of them than us. But that's a metaphor. Let's focus on the clerk here, who is sort of giving us some devious tools, because we have nothing else to go by. If I fill the criteria, if my Little Angels House of Benevolence fills the criteria, I can come here and seek a tax exemption.

Now what we're saying here is we're going to build in, to bypass the pleasure of an audience, that opportunity, a set of rules whereby you're going to have to go back home and get bylaws approved by all responsible parties, namely, as John said, the school board and the municipalities. Once you have that package here, then you will come here and we still have the discretion of saying: "The committee is busy. Yes, you fill the criteria, we have a statutory obligation to hear you, but you can't get scheduled."

Then you go further than your resolution here, and we appreciate the help, and you say, "Well, really straitjacket until we can see." I'm all in agreement with this. I don't want to see those people, because it's not the right way to go about it. But I want to see the wording. I've signed the first one, Madame. Now I want to see the addition before I sanction that. I have no reservation, absolutely. I don't think we're going far enough. We should mind our own business. We're sending less money anyway to the municipalities. Let them run their own show.

**The Chair:** Is there any further discussion on Mrs Pupatello's motion to accept this report of the subcommittee? Hearing none, I'll ask the clerk just to clarify.

**Clerk of the Committee:** Just to clarify two things. The subcommittee also decided there is one application that has been in the works. The applicant has already incurred costs in terms of advertising and would like to be heard next week. The subcommittee decided that, instead of catching that person in the new system, they will be scheduled next week. So you will be hearing a tax exemption next week.

It's also my understanding that we're going with the original subcommittee report at this point. The amendments will be left off for the subcommittee to determine. We're just going with what's in front of you.

**The Chair:** All in favour on this report? Carried.

*The committee adjourned at 1112.*





## CONTENTS

Wednesday 6 December 1995

<b>Waterloo-Guelph Regional Airport Act, 1995</b> , Bill Pr38, <i>Mr Leadston</i> .....	T-35
Frank Sheehan, MPP	
Connie Giller, commissioner of corporate resources and solicitor, regional municipality of Waterloo	
Lois Payne, solicitor, city of Guelph	
<b>City of York Act, 1995</b> , Bill Pr44, <i>Mr Colle</i> .....	T-36
Mike Colle, MPP	
George Bartlett, solicitor, city of York	
<b>Subcommittee report</b> .....	T-39

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- \*O'Toole, John R. (Durham East / -Est PC)
- \*Pettit, Trevor (Hamilton Mountain PC)
- \*Pouliot, Gilles (Lake Nipigon / Lac-Nipigon ND)
- \*Pupatello, Sandra (Windsor-Sandwich L)
- \*Rollins, E. J. Douglas (Quinte PC)
- Ruprecht, Tony (Parkdale L)
- \*Sergio, Mario (Yorkview L)
- \*Shea, Derwyn (High Park-Swansea PC); parliamentary assistant  
to the Minister of Municipal Affairs and Housing
- \*Sheehan, Frank (Lincoln PC)
- \*Smith, Bruce (Middlesex PC)

*\*In attendance / présents*

**Clerk / Greffière:** Freedman, Lisa

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## Legislative Assembly of Ontario

First Session, 36th Parliament

## Assemblée législative de l'Ontario

Première session, 36<sup>e</sup> législature

# Official Report of Debates (Hansard)

Wednesday 27 March 1996

# Journal des débats (Hansard)

Mercredi 27 mars 1996

**Standing committee on  
regulations and private bills**

**Comité permanent des  
règlements et des projets  
de loi privés**



Chair: Toby Barrett  
Clerk: Lisa Freedman

Président : Toby Barrett  
Greffière : Lisa Freedman



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LEGISLATIVE ASSEMBLY OF ONTARIO  
STANDING COMMITTEE ON  
REGULATIONS AND PRIVATE BILLS

Wednesday 27 March 1996

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO  
COMITÉ PERMANENT DES RÈGLEMENTS  
ET DES PROJETS DE LOI PRIVÉS

Mercredi 27 mars 1996

*The committee met at 1006 in committee room 1.*

1092040 ONTARIO INC ACT, 1996

Consideration of Bill Pr43, An Act to revive 1092040 Ontario Inc.

**The Chair (Mr Toby Barrett):** Good morning. Welcome to our inaugural 1996 meeting of the standing committee on regulations and private bills. This morning we are considering three bills.

Our first is Bill Pr43, and Tony Ruprecht will be substituting for Dalton McGuinty. I'd mention too that we've gone high-tech. I'll ask the clerk to explain.

**Clerk of the Committee (Ms Lisa Freedman):** Our first witness we actually have on the telephone from Ottawa. We thought we would try a telephone hookup instead of requiring the applicant to be down here. There is no standing order requirement that the applicant actually be here, although it is the practice of the committee. This is probably a fairly straightforward bill and there are no objectors, so we're trying this as an experiment. We have the applicant on the line. I would request, though, if possible, that we keep all interjections down because that may interfere with the telephone hookup, and that before you speak, you state your name so the applicant will know who's speaking.

**Mr Tony Ruprecht (Parkdale):** Mr Chairman, distinguished members of this committee, ladies and gentlemen, I have a pleasant task to perform today. I'm sitting in for Dalton McGuinty, as the Chairman indicated. This is An Act to revive 1092040 Ontario Inc. As you all see, the corporation was dissolved under the Business Corporations Act on November 15, 1994, for failure to pay the prescribed fee for incorporation. The applicant, who is now on the telephone, represents that this failure was inadvertent since he did not receive the notice of default that was mailed to the corporation. I think this may be fairly straightforward, and I'm happy to be here on behalf of Mr Dalton McGuinty.

**The Chair:** I would ask the applicants to please introduce themselves and present.

**Ms Nancy Johnson:** Thank you very much. First of all, I cannot hear any of you, so if you are trying to interject, I'm not going to be able to hear you. My name is Nancy Johnson. I'm a partner in the law firm of Burke-Robertson in Ottawa, and this little difficulty began in our office. I thank the Chair and the committee for permitting me the indulgence of speaking to you in this manner.

I would like to address two questions, the first one being, what is our bill all about? I believe you heard that summary. The second question is, why do we need it?

In answer to the first question, the bill is to revive a numbered Ontario company that was cancelled because our firm's trust cheque for \$315 payable to the ministry at the time of incorporation was inadvertently unsigned. Our corporate clerk delivered the articles of incorporation to the ministry office in Ottawa and failed to notice that the cheque was not signed. The ministry official did not notice that the cheque was not signed. The ministry official stamped the articles and returned them to our clerk. I subsequently learned that the cheque arrived at our bank and was refused because of the lack of signature. At no time did the bank call us or notify us in any way, again a very unusual situation, because we do a great deal of business with them. They are a few blocks away and we know them on a first-name basis. At no point then was my corporate clerk, our accounting office or I informed that there had been a problem.

The second question: Why do we need a private member's bill? Why can I not simply write another cheque for \$315? My client is from Ottawa. He was taking over a restaurant franchise in London which had been failing and he had to move quickly. He was not familiar with London and provided me a head office address as 215 Piccadilly Street in London. That was the address given for the articles of incorporation. Not long after, I began to notice that my mail was being returned to me; in other words, the mail I was sending to my client. I then began to use the name of the actual restaurant and succeeded in having mail forwarded on that basis. I did not realize that 215 Piccadilly Street had numerous units in it.

The ministry then sent a notice to the head office as stated in the articles, giving my client 60 days to pay the filing fees. My client did not receive the notice for the same reason that my mail was not getting to him. Even though it was our trust cheque which started this problem, we were given no notice by the ministry. We understand that the finance or accounting section of the ministry takes the position that only the corporate head office needs to be advised, notwithstanding that it was our name and address on the cheque. The result was that neither my client nor our firm had any idea that there was a problem, nor did we ever receive any notice. Consequently, the 60-day period expired and it was only some time later, after we were filing a routine document, that we were advised that the company was cancelled for cause.

After the 60-day period is over, the legal branch of the ministry has told us, the director of the companies branch has no power to revoke the cancellation order. That seems to be the case based on a 1946 case that was quoted to us. The only way we can revive this company is through a private bill. As you probably know, corpor-



ations are creatures of statute and have no independent rights. In the meantime, obviously, my client has acquired tenancy rights under a commercial lease; he's bought a franchise; he has bank accounts, a liquor licence, retail sales tax number, GST number; he's hired employees and acquired assets. If this company does not exist as of its incorporation, all those rights are in jeopardy, all the assets are in jeopardy and all the obligations are questionable. That is why we need this company revived as of its incorporation date. Those are all my comments, and if anybody has any questions, I will try to hear you.

**The Chair:** Thank you, Ms Johnson. I will now ask the parliamentary assistant to the Minister of Municipal Affairs for any comments from our government.

**Mr Derwyn Shea (High Park-Swansea):** There are no objections to the passage of this bill.

**The Chair:** I would now ask for comments or questions from members of the committee.

**Mr Mario Sergio (Yorkview):** From what I have heard from the presentation and from what I have read here, it doesn't cause me to have any doubts on the request. If it's appropriate at this time, I would move approval of it.

**Mr Gilles Pouliot (Lake Nipigon):** Under errors of omission, I think we have a typical case of someone falling into the crack, someone who made what appears to be, in my humble opinion, an honest mistake, and then time and system and "problématique" took over and the can of worms became nothing short of a bag of snakes, because it seemed to escalate and the person was left not being able to operate by virtue of process. While we must have process—otherwise there would no system—I think the human dimension in this case readily acquiesces that let's get on with it. It's obvious what has happened. It should not happen, but unfortunately it shall happen again. I thank people on the other end for their diligence and vigilance.

**Mr John Hastings (Etobicoke-Rexdale):** I'm just wondering if there is a lesson to be learned out of this for the parliamentary assistant, that if we get similar circumstances with other bills, maybe we ought to look at appropriate legislation that would allow the responsible people in consumer and commercial relations or whatever ministry to correct the situation so that you don't have every bill of this sort coming before a committee; in other words, creating a little empowerment in people. It would appear to me, based on the surface of the story and the facts, that is one of the lessons to be learned from this in terms of giving people in the ministries at the appropriate level a little more flexible decision-making.

**Mr Shea:** An appropriate observation; I'll take that under advisement.

**Mrs Sandra Pupatello (Windsor-Sandwich):** To the PA, it seemed to be going up the line until one individual within the ministry didn't have the power to revoke that dissolution order. At what level was that?

**Mr Shea:** I can't answer that one directly. Some of the staff present may be able to give you that answer. We can get that information.

**Mr Ruprecht:** I'd like to make a comment, but maybe first we could have Ms Johnson off the telephone and

pass this. Then I'd like to say something about Mr Hastings's remarks, if you don't mind.

**The Chair:** Are members of the committee ready to vote? In time-honoured tradition, we would collapse several sections for consideration.

Shall sections 1, 2 and 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

I would ask the clerk for a comment.

**Clerk of the Committee:** I'd just like to tell Ms Johnson now that she can disconnect, and I'll speak to her this afternoon about how the process continues from here.

**Mr Ruprecht:** Just a very brief comment on Mr Shea's remark. I'm very delighted that Mr Shea will take this up with his officials, and for Mr Hastings to make a comment was very appropriate. Having been on this committee for a number of years, this comes up occasionally and everybody promises to continue and to make the necessary changes. I was here 14 years ago when this was brought up the first time; I remember it because every administration, at the beginning of its term, says the same thing, but not much happens. You're right, Mr Pouliot. What do we do? We ask for a motion here to empower Mr Shea, because he will be our point man. You've heard that before, right? We're going to place all our trust in Mr Shea to come back here to this committee sometime and tell us precisely what the follow-up is going to be on this question, and then all of us are going to be happy legislators. Is that possible?

**Mr Shea:** I appreciate Mr Ruprecht's confession and the sins of omission. I will take it unto myself to try and address the question. I have no immediate answers as to how the government will proceed or in what time, but I can give my undertaking to try to do better than we seem to have done in the past.

**Mr Ruprecht:** Mr Chair, Mr Shea seems to forget that 14 years ago it was the administration of Bill Davis.

**Mr Shea:** I remember also the last 10 years as well, but I will try to do better. That is my objective.

**The Chair:** I thank all parties. Mr Ruprecht, could you convey thanks to the applicant as well.

**Mr Ruprecht:** Mr Chair, I will do that.

1020

## TD TRUST COMPANY ACT, 1995

Consideration of Bill Pr24, An Act respecting TD Trust Company and Central Guaranty Trust Company.

**The Chair:** Our next order of business is Bill Pr24. The sponsor, Rosario Marchese, is absent. I would ask the applicants if they could please introduce themselves and put forward the bill for consideration.

**Mr Charlie Macfarlane:** My name's Charlie Macfarlane. I'm president of TD Trust. I'm also a senior vice-president of Toronto-Dominion Bank. On my right is John Muir, who is a senior vice-president within TD Trust. On my left is Jane Stubbington, who is internal counsel for TD Trust, and John Walker, who is counsel with McCarthy Tétrault, who's been looking after this matter for us for some period of time. We appreciate very much the opportunity to address this group.



In 1992 the federal office of the superintendent of financial institutions and Canada Deposit Insurance Corp determined that Central Guaranty Trust Co was no longer financially viable and commenced a search for one or more financial institutions to acquire the businesses of Central Guaranty Trust Co.

The Toronto-Dominion Bank was selected to acquire the major parts of these businesses. On December 31, 1992, the Toronto-Dominion Bank and its subsidiaries acquired substantially all the assets of Central Guaranty Trust Co. TD Trust Co, a wholly-owned subsidiary of the bank, acquired Central Guaranty Trust Co's fiduciary business.

The fiduciary business consisted primarily of personal estates and trusts, of which over 1,000 were in Ontario. In addition, there were several thousand Ontario wills in our wills bank. The acquisition of the personal estates and trust business is conditional upon TD Trust being appointed as successor trustee to Central Guarantee Trust.

Ordinarily the transfer of the trusteeship under an estate or trust is accomplished pursuant to a court proceeding under the Trustee Act of Ontario. This can be extremely costly to the trust or estate, which must normally bear these expenses.

It also places a burden on the already financially taxed judicial system. Due to the number of trusts and estates involved, it would be impractical and extremely expensive to follow this procedure. In the past in transactions of this type, special legislation similar to the proposed bill has been passed to accomplish a transfer of trusteeship from one trust company to another. Such legislation was passed for the Montreal Trust Co of Canada and the Royal Trust Corp of Canada.

The proposed bill will provide an economical means of transferring the trusts and estates administered by Central Guaranty Trust Co to TD Trust, and will avoid the need for thousands of court applications to transfer these estates and trusts.

Since December 31, 1992, TD Trust Co has been administering Central Guaranty Trust Co's estates and trusts under an agency agreement. During this time TD Trust has not encountered any complaints in Ontario from the beneficiaries of these personal estates and trusts as a result of its assuming the administration of the estates and trusts as agent for Central Guaranty Trust. Central Guaranty Trust Co itself is insolvent and is in the course of liquidation.

In conclusion, the proposed bill will benefit the estates and trusts administered by Central Guaranty Trust Co and the beneficiaries thereunder by providing a solution to the costly process of transferring trusteeship under the Trustee Act of Ontario. It will also mean that thousands of court proceedings can be avoided, thereby benefiting Ontario's judicial system.

**The Chair:** I would ask the parliamentary assistant for any comments on the part of the government.

**Mr Shea:** I think Mr Macfarlane has given a very good, very succinct outline of the issue that's before us. The number of trusts involved, the implications for the court system and the involvement of so many parties make special legislation appropriate. He has spoken to precedent that has enjoyed support of the Legislative

Assembly in the past. For that reason, the government supports the motion before us and has no difficulties with it.

**The Chair:** I would now ask for questions to either the applicant or the parliamentary assistant with respect to Bill Pr24.

**Mrs Papatello:** To the parliamentary assistant or ministry staff, is there any reason we would not do this?

**Mr Shea:** I've not had anything brought to my attention to indicate why we should be hesitant in this particular instance. In this instance, I think Mr Macfarlane has outlined very carefully both the breadth and the scope of the issue that warrants this kind of legislation.

**Mrs Papatello:** But would there be any consideration about precedent-setting?

**Mr Shea:** There have been precedents already in this case.

**Mrs Papatello:** So historically there haven't been any problems with the—

**Mr Shea:** Exactly. The fact that this has been administered since 1992 and there have been no complaints lodged—in fact, it is my understanding that perhaps the estates commissioner has indeed reviewed this and has had no difficulties with it. There are, as I said, precedents: Montreal Trust, Royal Trust and so forth, so indeed we are following down the same track where indeed we save a great deal of agony for an awful lot of people, a lot of money that would otherwise be spent in the courts and so forth. It is an appropriate act, I believe the government would suggest.

**Mr Gilles Bisson (Cochrane South):** I have a question to the applicant whose people are before the committee. Just reading through, it says, "The acquisition of the personal estates and trust business is conditional upon TD Trust being appointed as successor trustee to Central Guaranty Trust Co." That's only for being able to deal with the assets within the bank that the individuals are trying to get? Who ends up with the money? That's what I want to know.

**Mr John Muir:** The situation is that we administer estate and trust accounts as trustee, and the assets in those accounts belong to the beneficiaries of those estates and trusts. That situation doesn't change at all; it's just that the name of the trustee changes from Central Guaranty Trust to TD Trust. The rights of the beneficiaries remain exactly the same.

**Mr Bisson:** So the problem is that the people who would normally get the money through the will aren't able to because of the previous trust going under?

**Mr Muir:** No, that isn't the problem. The issue is that legally there is no means of transferring a trust from one trustee to another except either by legislation, which is this route, or by going to the courts and asking the courts to make that change of trustee, unless the trust document itself provides for it. In those few cases where it did, we've already made that change.

**Mr Bisson:** Just out of interest, you're saying the cost to the individual is fairly expensive in regard to the legal process. How much would that normally cost them?

**Mr Muir:** A court application, depending upon how smoothly it went through the court, would cost normally in the range of \$3,000 to \$5,000 for each case.



**Mr Pouliot:** Good morning; we're delighted to have some major players. How many people would be impacted, grosso modo? It need not be accurate, but would we be talking about 500 people, 1,000 people? I'm talking about the client group, the people whose trusteeship would come under your tutelage.

**Mr Muir:** There are over 1,000 estates and trusts involved, and each one would have probably three or four beneficiaries involved, so you'd be looking at perhaps 3,000 or 4,000 people would be directly affected.

**Mr Pouliot:** You've mentioned, so rightly, that there is a cost factor, but in the context of money there's also a time element. Would you acquiesce with me that beyond, and perhaps the most important in this, is the element of time and the human dimension, the anxiety, the trauma of not knowing, and all this is related and could be eliminated?

**Mr Muir:** Yes.

**Mr Pouliot:** The precedent has been established, although from time to time, precedents—well, they seem to always be mentioned. They're an asset because you can have an analogy with some validity, a parallel, but I can assure you, for some members of the committee there's a price to pay. Since those precedents have been established, they've become a burden. They go beyond the guidance; they become an obligation, that if it was done before, why can it not be done now?

But this is unusual, the pleasure of an audience with the VP of Toronto-Dominion, one of our major chartered—I envy you; if we did half as well as you did, we'd be doing very well. It's good times for trust companies. I have some difficulties with this. I acquiesce with what is being said and of course it will go through; we'll side with the government on this. By the same token, I wish to mention that I have some difficulties, and always will have, with mismanagement. When we're talking about the lives, one of the pillars of retirement for many people—I mean, outside the political context, people really believe in these things and I think in this case they're in very good hands.

I won't say any more. Let's expedite it. Let's get it out of here.

**The Chair:** Any other questions from the committee? Seeing none, are members of the committee ready to vote? All right.

Shall sections 1 through 9 carry? Carried.

Shall the preamble carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

I wish to thank the applicants very much.

1030

## CITY OF SCARBOROUGH ACT, 1995

Consideration of Bill Pr41, An Act respecting the City of Scarborough.

**The Chair:** Now to the third item of business, Bill Pr41. Its sponsor is Dan Newman, MPP, and the applicant is the city of Scarborough. I ask the sponsor if you have any comments on this bill.

**Mr Dan Newman (Scarborough Centre):** I'm Dan Newman, MPP for Scarborough Centre and sponsor of Bill Pr41, An Act respecting the City of Scarborough, on

behalf of the applicant, the city of Scarborough. This act will allow the city of Scarborough to restrict the demolition and removal of heritage properties designated under the Ontario Heritage Act. I am pleased to be the sponsor of this bill in this, Scarborough's bicentennial year. Joining us today is Jasmine Stein, solicitor with the city of Scarborough.

**Ms Jasmine Stein:** My comments are very brief. The bill which you have before you is modeled on the private legislation of a number of other municipalities, including Hamilton, Burlington, Vaughan, Markham, Oakville, London and Toronto. What it will do, quite simply, is put the city of Scarborough on equal footing with these other municipalities with respect to the ability to preserve Scarborough's heritage resources.

At present, the municipality's ability to preserve and protect its heritage properties and resources is quite limited. Once the statutory time periods have expired, there is virtually nothing a municipal council can do to prevent or restrict the demolition of heritage property. What this legislation will do is give the municipality a greater ability to protect and preserve heritage properties of historical and architectural significance, which the city of Scarborough is committed to preserving, by restricting the ability to demolish a building or structure unless the owner, in addition to waiting the statutory time period, has also obtained a building permit to erect a new building or structure on the site. It will also require the owner to complete the new structure within two years, subject to provisions for relief from that requirement. It will also increase the fines up to \$1 million for contravention. It is Scarborough's belief that this legislation will be of assistance in deterring the unwarranted demolition of valuable heritage properties. Those are my comments. If there are any questions, I'd be pleased to address them.

**The Chair:** Thank you. Before we go to questions, I would ask the parliamentary assistant to the Minister of Municipal Affairs, Derwyn Shea, for comments for the government.

**Mr Shea:** There is no objection to the proposed application for private legislation. As the applicant has pointed out, there is ample precedent. Many of us particularly who have got municipal experience know that this is really an enhancement of the heritage act. We know that the ministry is currently refining the legislation to improve it, but in the meantime these applications are required. At the present time, the 180-day delay is about the only support the municipalities can look to. So they follow in the step of saying that the next step involves the demolition permit and so forth. The government has no difficulties with the application.

**The Chair:** Questions to either the parliamentary assistant or the applicant?

**Mr Bisson:** Just a quick question to the parliamentary assistant: In Bill 20 there were changes made to the heritage act, were there not?

**Mr Shea:** This particular act is in fact coming forward as a separate bill.

**Mr Bisson:** But I know there were changes made to the policies—

**Mr Shea:** This was not particularly affected. That's why they still have to continue it on this track.



**Mr Bisson:** No. The point I'm getting at is that there were changes. There are changes being made to the provincial policies in regard to the—I forget the particular policy—protection of buildings, but I think there was something in the act as well.

**Ms Linda Gray:** There were changes in Bill 20. The changes in Bill 20 related to the Ontario Heritage Act were of a minor, technical nature. They dealt with notice provisions. The notice provisions were in a similar manner to the changes that were being made to the Planning Act. The changes that are occurring here are in a larger context and are something that the ministry is looking at in the future.

**Mr Bisson:** Weren't there also changes to the provincial policies?

**Ms Gray:** There are some draft policy statements that have been released, but again, they do not deal with this issue.

**Mr Bisson:** Would those policies make it easier for a developer to try to move in on a heritage site?

**Ms Gray:** I don't have the answer for you on that. I can get the answer for you in context from planning staff who deal with the policy statements.

**Mr Bisson:** If you can do that.

**Ms Gray:** Sure.

**Mr Bisson:** Certainly we'd support the application, because it goes in a direction that I would like to see, which is the preservation of heritage sites.

**Mr Hastings:** Mr Shea, how does this legislation define heritage properties? Anything over 100 years, or 75? Is there some time frame reference?

**Mr Shea:** I can't give the exact answer on that one right now, but I'll give you the exact figure out of the act later, if you'd like. I feel like I'm heritage sometimes. It depends on the day.

**Mr Hastings:** That you're a heritage? We know you are. We're going to preserve you in an act.

My other question relates to how this legislation protects against or balances against the rights of people who want to change the community, because I've seen heritage legislation in the past used as a tool to frustrate development.

*Interjection.*

**Mr Hastings:** Imagine that. It might create a few jobs, huh?

Is there any protection in there? How do you define a restriction? How is that considered in the bill?

1040

**Mr Shea:** Obviously, it is the municipality that is invoking the powers. It is the municipality and its elected representatives that are indeed saying that on this particular site only action will occur that's within the parameters this elected government wants to happen. What is being said here on the part of Scarborough is that it wants the same enabling legislation as other municipalities, to say that you can't—and I think Mr Bisson was trying to get at this a little earlier—just simply wait for the 180-day clock to end and then you can roll in and grab the land. They want other kinds of mechanisms to make sure that doesn't happen. Indeed, it puts some onus back on the applicant who wants that land to make changes. There is a place for that to happen, but you have to persuade the

appropriate local authorities that what you want to do is reasonable, and if it is seen that the local municipality is not acting, then you have recourse to deal with that in the courts, if there is some obvious direction you can take in that regard. But you can't just wait for the 180 days to end and then say, "Now we can tear down the building or do whatever we want to do."

**Mr Hastings:** When the heritage legislation comes in, it presumably will take precedence over all these other private acts.

**Mr Shea:** Yes.

**Mr Hastings:** Will it mean the end of them or that they just don't apply any more? The provincial legislation will have all the features that would be in common, I would assume, from some of the other specific—

**Mr Shea:** Linda may want to answer. I would assume that what has been done has been dealt with and that the Ontario Heritage Act will take precedence for any application from that point on.

**Mr Pouliot:** I find myself in a rather ironic position—Mr Hastings was seeking balance—and that was to ask about the opinion of the other players: the developers, the builders and building trades, if you wish. I apologize for not being all that familiar, maybe as much as I should, with Scarborough. I was trying to define what would be of heritage definition, if you wish. Being a product of North America, sometimes we tend to idolize a McDonald's if it's been on the block for more than 10 years, and it doesn't have to be the colosseum. But to each his own. We all value the blend of the glass and mortar and what is a reminder of yesteryear, but I share the same concern, ironically, as Mr Hastings. If there's an opportunity to create jobs, that has to be preserved as well and heritage will not be—I'm not imputing motives—used in any other fashion than its pure and true purpose, which is to preserve and through that to remind us of our past, not to deter in any way. Simply put and by conclusion, you won't have hypothetically a dozen people stalling a project by virtue of pleading heritage virtues.

**Mr John O'Toole (Durham East):** I have just a couple of questions I would ask the member from Scarborough. I gather you're celebrating an important anniversary in Scarborough this year. Perhaps you could tell me what that is.

**Mr Newman:** It's the bicentennial in Scarborough, 200 years.

**Mr O'Toole:** I sit beside the member in the House and I know just how much he champions the city of Scarborough. I wanted one more opportunity to go on the record to support the city of Scarborough and I'm glad there's that kind of heritage.

But on a more serious note, I have a question, perhaps to the solicitor. Those owners who apply do receive grants under the heritage act to enhance or embellish and improve the building and estate. That's the case, right?

**Ms Stein:** I believe for designated buildings certain grants are available to undertake certain types of preservation.

**Mr O'Toole:** So what happens, if a building has received a grant which is in fact taxpayers' money, if the building is then deemed to be eligible to be demolished?



What happens to the money that was paid over time to have the bricks redone etc? Is that paid as part of the reconsideration of the designation?

**Ms Stein:** If the building is subsequently demolished, there is no means of retrieving money that was put into the renovations of the building, that money that's been spent.

**Mr O'Toole:** Well, that's taxpayers' money that's been spent. To reverse it because it was sold—I would like to think that would be a consideration. Perhaps staff could respond to that, because I know they're eligible for grants for windows, roof, bricks, you name it; any kind of restoration costs, they're eligible annually for a subsidy, grant. I know of places where they've spent \$30,000 or \$40,000 to do a slate roof, and then subsequently tear the building down, and it's my money that put the roof on there. I want my money back. Is that somewhere in this thing, or am I prolonging this particular application?

**The Chair:** Any other comments on that question?

**Mr Dave Boushy (Sarnia):** According to my experience at the municipal level, I understand there was just an initial grant by the taxpayers, a very small grant, maximum \$2,000. The rest is not taxpayers' money, so we're talking, maximum, \$2,000 investment by the taxpayers, according to my information. I may be wrong.

**Mr Bisson:** I just would say that I am in opposition to my own colleague's views in regard to heritage sites. I believe that the community is best situated, at the local level, to be able to determine through the deliberations of councils and the activities of the people in the community what sites should be preserved.

We in our community are a young community; we're 75 years old. I would expect that under the existing act at this point it would be fairly difficult to declare very many buildings in my community, but I'm sure in communities like Scarborough and others there is a net benefit to the community to protect.

In regard to the heritage act, is there a discussion paper out now? I haven't seen anything come through my desk in regard to what the government intends to do on the heritage act.

**Ms Gray:** There has been a series of discussion papers issued in the past. I'm not aware whether there is something recent, but in the past two or three years there have been discussion papers. They have been before the public. There have been, I gather, a number of cross-province tours in response to that.

**Mr Bisson:** I know our government had been looking at making some changes to the act. Discussion papers had gone out. I had met with people in my community who were interested in that issue. Is there anything recent, after the election of 1995, new and significant changes to the heritage act being contemplated by the government that I can present to the people in my community who are interested?

**Ms Gray:** I'm with municipal affairs, as I said, and I don't have the direct answer to your question, but I will phone my colleagues in the other ministry and I will provide you with an answer at the next meeting.

**Mr Bisson:** That's what I'd like. Thank you.

**Mr Trevor Pettit (Hamilton Mountain):** The member for Durham East actually brought up what I was going to ask. It is the bicentennial for Scarborough, I believe?

**Mr Newman:** Yes, it is.

**Mr Pettit:** On behalf of the people of Hamilton Mountain, we certainly wish you congratulations on that. Based on the bicentennial, could you possibly give me any indication as to how many heritage sites there might be in Scarborough that have been designated?

**Ms Stein:** Unfortunately, I don't have that answer.

**Mr Pettit:** Is it 10, 100, 200? Three?

**Ms Stein:** It is certainly not 100 or 200. It's not a large number, but I don't have the exact number.

**Mr Pettit:** You mention here in your compendium the City of Hamilton Act, and I can say that the City of Hamilton Act was very beneficial to the local politicians in terms of heritage properties. However, I would caution there that it sometimes creates some infighting, and I wouldn't want to let any heritage-type sentiment get in the way of either the common good or progress. Obviously, I think we still have to look at the progress of the community and not get overly sentimental at times.

Having said that, though, I move that we vote to pass this bill.

**The Chair:** I have one more questioner: Mr Sergio.

**Mr Sergio:** I don't want to prolong it. I just want to add that normally—I don't know if it's the same for the city of Scarborough—the heritage groups or departments, if you will, fall within the jurisdiction or under the control of the local municipalities. In this case, they are administered by the city of Scarborough?

**Ms Stein:** Yes.

**Mr Sergio:** So they are funded, if there are any funding requirements, by the city of Scarborough as well? I think I know the answer.

**Mr Shea:** That's a different issue.

**Mr Sergio:** That's fine. I don't want to prolong it.

**The Chair:** Are members of the committee ready to vote?

Shall section 1 through to section 10 carry? Carried.

Shall the preamble carry? Carried.

Shall the title of the bill carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

I want to mention that we inadvertently failed to pass the titles of the previous two bills; I missed that. If it's okay with the committee—

**Mr Bisson:** Unanimous consent is granted.

**The Chair:** Maybe just for the record, shall the titles to Bill Pr43 and Bill Pr24 carry? Carried.

Thank you, everybody.

*The committee adjourned at 1052.*











## CONTENTS

Wednesday 27 March 1996

<b>1092040 Ontario Inc Act, 1996</b> , Bill Pr43, <i>Mr McGuinty</i> .....	T-43
Tony Ruprecht, MPP	
Nancy Johnson, solicitor	
<b>TD Trust Company Act, 1995</b> , Bill Pr24, <i>Mr Marchese</i> .....	T-44
Charlie Macfarlane, president, TD Trust Co	
John Muir, senior vice-president, TD Trust Co	
<b>City of Scarborough Act, 1995</b> , Bill Pr41, <i>Mr Newman</i> .....	T-46
Dan Newman, MPP	
Jasmine Stein, solicitor, city of Scarborough	

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\*Ruprecht, Tony (Parkdale L)

\*Sergio, Mario (Yorkview L)

\*Shea, Derwyn (High Park-Swansea PC); parliamentary assistant  
to the Minister of Municipal Affairs and Housing

\*Sheehan, Frank (Lincoln PC)

\*Smith, Bruce (Middlesex PC)

*\*In attendance / présents*

**Also taking part / Autres participants et participantes:**

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## Legislative Assembly of Ontario

First Session, 36th Parliament

## Assemblée législative de l'Ontario

Première session, 36<sup>e</sup> législature

# Official Report of Debates (Hansard)

Wednesday 3 April 1996

# Journal des débats (Hansard)

Mercredi 3 avril 1996

**Standing committee on  
regulations and private bills**

**Comité permanent des  
règlements et des projets  
de loi privés**



Chair: Toby Barrett  
Clerk: Lisa Freedman

Président : Toby Barrett  
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LEGISLATIVE ASSEMBLY OF ONTARIO  
STANDING COMMITTEE ON  
REGULATIONS AND PRIVATE BILLS

Wednesday 3 April 1996

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO  
COMITÉ PERMANENT DES RÈGLEMENTS  
ET DES PROJETS DE LOI PRIVÉS

Mercredi 3 avril 1996

*The committee met at 1005 in room 151.*

CITY OF OTTAWA ACT, 1996

Consideration of Bill Pr42, An Act respecting the City of Ottawa.

**The Chair (Mr Toby Barrett):** Good morning. I wish to welcome everyone and call to order this meeting of the standing committee on regulations and private bills for today, Wednesday, April 3, 1996. I wish to call the first and only bill today, Bill Pr42, An Act respecting the City of Ottawa. I see that the sponsor and the applicants are present. I would ask the sponsor of this bill, Mr Guzzo, MPP, to briefly introduce himself and say a few words, and I would ask the applicants if they could also introduce themselves when they make their opening remarks.

**Mr Garry J. Guzzo (Ottawa-Rideau):** First of all, I might introduce the deputy mayor of the city of Ottawa, Councillor Joan Wong. Also here are Councillor Stéphane Émond-Chabot from the city of Ottawa; Mr James Seigny, the commissioner of planning and economic development for the city; and Mr Jerald Bellomo, the city solicitor.

By way of introduction, I spelled out in a letter which was forwarded to each member of the committee in March that this issue, as I see it, is an issue as to who should govern the city of Ottawa's two markets, one that has operated in the city for 160 years on city land and another that has operated for in excess of 70 or 75 years. I think my submission, in putting forward the bill, is that it is a municipal matter, it's a matter that belongs in the hands of the municipality.

Unfortunately, a court decision by Mr Justice Cosgrove has placed it here before you today. I should draw to your attention that in the intervening period, in my opinion, Bills 26 and 20 have altered tremendously the position taken by Mr Justice Cosgrove. But if Mr Justice Cosgrove is correct and that is the law of Ontario today, then it applies not to just to the market in Ottawa; it applies to every similar market across Ontario and it may apply to situations such as trade fairs etc that other municipalities hold from time to time, including things like Christmas craft sales where individual cities are involved.

You've obviously heard the arguments that go beyond the municipal issue, and if you are dealing with those today, I have to be honest and tell you that as a member of the council that drafted that first market bylaw, there are definitely two sides to the story. I tell you that a vice-president of my riding association is here today, a businessman on the market, opposing this particular bylaw. There are definitely two sides to the story, two sides to the issue, and over the years from time to time,

as the bylaw has been amended with different councils, there have been times when I have agreed with it and times when I haven't. As a ratepayer in the city of Ottawa, that's of some significance to me. On the other hand, it is a matter for the city and it is a matter for the democratically elected council of the city, a council that voted 9 to 2 to come here and ask for your help, for the powers to go about its business.

It's a very, very significant matter for the city. This is the first or second most important tourist attraction in the city of Ottawa for six months. It is a major economic generator. It spins tremendous dollars throughout the community and it is a source of livelihood for a number of the businessmen and a number of people. I can recall, when the first bylaw was drafted, the issue of people owning fruit stores and businesses on the market paying taxes. In those days, Zunders Fruitland was paying \$126,000 a year in taxes to the city of Ottawa, business taxes and realty taxes; and Slipacoff Meats \$114,000. These people were being confronted with competition by people who rented a stall, in those days, for \$8 or \$12 a day. It was for that reason that the council of the day took some action. Over the years, as I say, the bylaw has been amended.

The mayor has given an undertaking, as have the councillors, that provided they are given the legislation today, they will immediately move to have a committee hear from the stakeholders' different points and to prepare themselves to draft a bylaw for 1996. But it is drawing to the point where we're hoping that market will open some time in May, and time is of the essence.

For the willingness to deal with this issue and the timely manner in which this committee has agreed, we thank you. I would like at this point to turn it over to Mr Bellomo and ask him to take it from here.

**Mr Jerald Bellomo:** Mr Chairman and members of the committee, Mr Guzzo has introduced our delegation. The only other point I would add is that what is before you today is really the survival of two markets. The Parkdale Market is represented on council by Councillor Joan Wong. The By Ward Market is represented by Councillor Stéphane Émond-Chabot.

The purpose of the bill is very simple. It's to give the council of the city of Ottawa the required enabling legislation to permit it to regulate the By Ward and Parkdale markets to ensure that they remain faithful to their heritage as producer-based farmers' markets. Why is the bill before you? This was indicated briefly by Mr Guzzo. It's here because of a decision of Mr Justice Cosgrove, who quashed Ottawa's prior markets bylaw, bylaw 55-95, on the very narrow basis that the city of Ottawa simply did not have the enabling legislation to do what it wanted



to do. However, Mr Justice Cosgrove was, I would suggest, quite complimentary of the city's intent.

He said bylaw 55-95 was the culmination of extensive, exhaustive study by the city to come up with a way of supporting, enhancing and regulating the farmers' markets, of supporting and encouraging local farmer products vending in these markets. In ruling that the bylaw exceeded the city's statutory power, however, the judge recognized that the legal problem could be corrected by provincial intervention when he said that presumably the government of the province of Ontario has a continuing role to play.

That's why we're here before you today. We're asking for you to give us the power to do what council wishes to do. The application before you is in keeping with a fundamental principle that has been enunciated quite clearly by this government. The intent is to give municipalities the power they need to control and regulate local issues. The two markets are clearly local issues. The future of the markets is a matter for local decision-making and this bill is required to enable our council to make those local decisions.

Bylaw 55-95, the previous bylaw, and this request for special legislation clearly have the support of the substantial majority of our council. There have been several votes on these issues, and consistently the vote has been 9 to 2 with the mayor among the majority. This bill was filed in November. Since that date, we have continued the process of consultation with business groups, community groups and provincial staff, and these consultations have resulted in, among other things, two amendments that are going to be put forward by Mr Rollins before the committee today.

One is really a simple, technical amendment to clarify that the bill only applies to the By Ward and Parkdale markets. This amendment addresses a specific concern raised by the board of trade in Ottawa and we are consenting to this amendment.

The second amendment clarifies that the legislation is not intended to discriminate against farmers outside the immediate Ottawa area. The second amendment takes out the phrase "points of origin." That concern was raised, among other people, by the Ministry of Municipal Affairs. Again, we are consenting to the deletion of that particular phrase.

I've been asked to be brief and I will be brief. We are here to ask your support in our efforts to preserve an Ottawa tradition and a cornerstone of the economy of the Ottawa Valley farming community. Make no doubt about it, this is an important issue for the city of Ottawa. We need your support.

I would now ask our commissioner of planning and economic development, Mr James Sevigny, to add a few words.

**Mr James Sevigny:** As you've just heard, I'm the commissioner of planning and economic development for the city of Ottawa. I'd like to put my economic development hat on at this time and ask this committee to consider our request for special legislation in the context of Ottawa's local economy. At this point in time, the city of Ottawa and the surrounding district are in the process of absorbing the effects of the largest single job layoff in the

history of Canada. I'm talking, of course, about the federal downsizing, where in one fell swoop our local economy lost 15,000 jobs. You can imagine the effect of that on that economy. Where we normally have a healthy economy and healthy statistics, the unemployment rate has now risen significantly above the national average, the vacancy in downtown offices is at an alarmingly high rate and retail sales in our local economy have plummeted.

What this means is that we must maximize our opportunities in other areas in order to balance out our economy and keep it healthy. One of those strengths is indeed the By Ward Market, which is a major engine of growth and economic activity for our local economy. The retail sales in the immediate By Ward Market area are approximately \$325 million annually; \$45 million of that amount results directly from farmers' market activities. You've already heard that the By Ward Market is one of three top tourist attractions for the Ottawa area. On an average weekend, there are 100,000 visitors to the By Ward Market area.

There are many successful businesses in the By Ward Market. Listed among them are restaurants, entertainment, retail trade, other tourist attractions and of course the farmers' market itself. But our studies have shown that the successes that have been realized in all of these other industries are directly due to the farmers' market, that it is the essential ingredient in everything that is happening in the By Ward Market. It's our strength, it's our market niche, it's our competitive edge. That's why we feel so strongly about what we're coming forward with today.

You can imagine our concern from 1975, when we had 107 growers on the market, to 1985, when that number dropped to 94, and to 1995, when we saw a further erosion to 59. You can imagine what our concern was over this prospect, as well as over losing many of our food retailers, some of whom had been century-old institutions in the By Ward Market. What we were seeing was that the authenticity and the viability of our farmers' market were slipping away, and so was our customer base.

What this prompted city council to do two years ago was to put a strategic plan, a business plan in place that would address the long-term viability of the market. What I have to suggest to you is that the legislation that is before you this morning is one of several tools intended to help us move towards the long-term viability of the By Ward Market. It's nothing more and it's nothing less. I would ask you to consider this legislation in that context.

It's my pleasure now to introduce our final speaker with the city of Ottawa delegation, Councillor Émard-Chabot.

**Mr Stéphane Émard-Chabot:** Mr Chairman, members of the committee, thank you for hearing us so quickly in your new agenda for this session.

You've heard from Mr Bellomo the legal situation, where we're at right now because of the interpretation by Justice Cosgrove of the Municipal Act. I think one point is important to stress. People keep asking: "Why is the city in this business? Why are we doing this?" About 100 municipalities in Ontario run farmers' markets, and the reason is quite simple. For the better part of this century, the Municipal Act has made it a municipal responsibility.



It is up to cities and townships to run markets with the rules that they see fit for their area.

**1020**

No two are identical. Some are purely producer-based, where the only people who can sell things are the people who grow them. Others, like By Ward and Parkdale, have a great mix. We have people in By Ward and Parkdale who are 100% producers, who only sell their own crops, we have people who supplement a bit, people who supplement more and people who are pure dealers. It's the coexistence of all these different types of businesses that really makes By Ward successful for its customers and the city and the 350 businesses in that area that depend on the volume brought to the area by the market.

It is a municipal responsibility and always has been. What we have been doing at the city for 160 years by managing this, by putting rules in place to balance the different interests—and we also have craftspeople. The markets are very complex things, very dynamic organisms that have to be managed. What we have been doing for 160 years is putting rules in place to balance these interests.

We find ourselves right now with a court decision with a very narrow interpretation of the act, saying, "What you've been doing for the last century, you can't do." Even if we wanted to go back to the bylaw before the one that started all this, we don't have those powers. That's quite simple. What we have right now is an interim bylaw that allows for the sale of all the things found in the market, that is, arts and crafts, refreshments, produce, Christmas trees, Christmas decorations—all those are usually handmade—sod, plants, flowers, you name it.

In the past, those things have been more or less segregated into areas where you have different types of activities, but what has happened now, because we cannot create different categories, is that anybody can sell anything listed in the bylaw. We could have, foreseeably, one person selling refreshments—that includes Cokes and chips—next to crafts from South America, next to sod. That is certainly not the vision for anybody. That's basically what we're left with under the interim bylaw, that we cannot create different categories nor assign geographic locations, which is part of the problem.

We're here to ask for the powers we thought we had, that I'm sure other municipalities think they have. It's really in line with the efforts of the government over the last few months, which is giving municipalities more responsibilities and more accountability to their local populations.

I'll stop here for now. I know there'll be a lot of questions, and we've been told that questions will come after. This is basically where we are. There have been a lot of things said, that we want to kill some business, that we want to throw some people out of the market. We would have to be very foolish to take something that generates \$325 million in sales annually and try to displace it or kill it or change its character radically. The strategic plan we were going ahead with was developed over many years of consultation, and we're not going to create a Disneyland. Farmers' markets are alive and well all over Ontario, and for a large city to have something

like this is an asset. It's the longest-surviving market, without interruption, in North America.

We have started a consultation process on a new bylaw, of course on the assumption that we will get the powers we need. If we don't get them, we can't do any more than what we've already done, so the whole point will be moot. I have committed to the people who were not happy with the old bylaw that the new bylaw will not be the infamous 55 of 95 with a fresh coat of paint. We are starting with a clean slate. We will not go through the aggravation and the antagonism of last summer. We have no intention of making people feel ill at ease. We from the city have a huge task in regaining the confidence of the people who are angry with us, and that is our work and that is what I am committed to doing. You will hear their grievances. As I said, there are points of contention, but there are also about a dozen points we all agreed on but that we cannot bring back. I think that's something that has to be considered very strongly by this committee.

I will end here and wait for questions. After you've heard from the other delegations, I will happily come back.

**The Chair:** Thank you, Mr Émard-Chabot, and thank you to the applicants for those comments. We will now ask the parliamentary assistant for municipal affairs, Mr Shea, for any comments from the government.

**Mr Derwyn Shea (High Park-Swansea):** Obviously, what is before us is that the city of Ottawa is seeking enabling legislation, which it thought it had until the 1995 bylaw was put to the test in the courts. Mr Justice Cosgrove indicated that in his opinion, the legislation did not provide the grounds for the city to do what it thought it had the power to do. They're back before us now, asking for that legislation to be improved so it's very clear. As Mr Guzzo put it very clearly, who has the right to control and to regulate local matters? And that's very much in keeping with the spirit and the intent and the legislation of Bill 26 and Bill 20.

You've had comments from the deputants about the problem with the last piece of legislation. Clearly it is contentious, and there were several concerns the Ministry of Municipal Affairs and Housing expressed. It would appear the applicant has brought forward amendments which address the concerns that either municipal affairs or the Ministry of Economic Development, Trade and Tourism had.

I'd like to very briefly, though, indicate the concerns. From the Ministry of Municipal Affairs there is no objection, from the local government organization. The Minister of Agriculture did point out very clearly that there have been some concerns with the management of the market over the last several years, and the city has been attempting to deal with that in an effective fashion. He believes that the passing of this bill, at least in so far as he understands Pr42 at this point, will enable the city of Ottawa to put bylaws in place to deal with those problems.

There was another serious concern expressed by a number of members of the House and by citizens, that this had a serious impact in terms of trade restriction, certainly under the agreement on internal trade. I have a response from MEDTT which reads in part: "In particu-



lar, section 3(1)(e), which would enable the city of Ottawa to pass a bylaw to prescribe the types of agrifood products sold based on their point of origin, runs counter to the non-discrimination provisions of the AIT. The removal of the phrase 'point of origin' could alleviate the discriminatory aspect of the bill." That is an amendment that I have heard is going to be put before us and certainly has been recommended by the applicant.

With those comments, any objections the government may have seen to this bill have now been addressed, and there are no further objections.

**The Chair:** Before we hear comments from interested parties, all three political parties have requested some opening remarks. I wish to begin with Mr Morin.

**Mr Gilles E. Morin (Carleton East):** We are discussing today two distinct yet closely related items. The first concerns the farmers, their produce and the marketplace as their chosen place of commerce. The second item is the market itself, its place and function in Ottawa. Should it be considered a quaint relic of the "olden days" to be preserved in a static form, or can it remain a vital component of the urban landscape and lifestyle?

I believe the latter is possible, and it is not a question of nostalgia. It has to do with supporting members of our community who have chosen agriculture as their livelihood, and with providing the residents of any community with quality, choice and diversity. Do we really want small farmers to disappear, leaving consumers at the mercy of mega-food producers who alone could determine what will be sold, at what price and in which condition? Considerations such as these should not be ignored. Decisions made today will not be without impact tomorrow.

The first item concerns the farmers, or vendors, if you will. The market obviously represents a significant source of revenue for them, or else they would not choose it as a place of commerce. The By Ward Market's 160 years of existence testify to its success, and to the fact that despite other alternatives, many persons still prefer to buy fruit and vegetables at an outdoor market.

Markets, both indoors and outdoors, are successful because people continue to appreciate not just the fresh food but the spirit and feeling of the market, with its many sights and odours. In this sense, a market can definitely compete with supermarkets and specialty shops.

1030

Yes, it is important to stress that much of the produce sold is local. This is a strong selling point. However, I see no reason local produce should not be supplemented by produce not readily available in eastern Ontario. It appears unreasonable to me to oblige farmers to sell only what they can grow themselves. A concerted effort should be made to offer consumers produce which is local, thus fresher, as much as possible, but without sacrificing the diversity and choice which are also very attractive to consumers. If selection is reduced, it will simply not be worthwhile for area residents to drive down or even walk over.

The concerns expressed by the farmers are thus very real. Farming is a difficult business in the best of times. Why make it harder? I honestly don't understand the mayor of Ottawa's argument that without special legisla-

tion there will be chaos. I agree there is need for some regulation, but it should be carefully considered. For example, some foods used to be available at the By Ward Market but are no longer considered suitable for sale for hygienic reasons. These regulatory changes have had a significant impact on the farmers' livelihood. One day you're selling head cheese, the next day you're not.

This is not to dismiss the usefulness of regulations or standards. Nevertheless, excessive ill-considered or misguided regulations can only impede growth. In the current economic context we should be promoting growth and job creation as much as possible rather than taking measures which kill opportunity and jobs.

The second item at stake in these discussions is the market itself. I said earlier that markets can represent a dynamic force in our community. The fact that the By Ward Market is the third-largest tourist attraction in the capital area speaks for itself. Will the proposed changes actually improve upon this? People's tastes are probably the most difficult to determine. One can't legislate everything; however, one can undo a good thing with inappropriate policies.

This should be a main consideration when discussing the future of the market. It seems to me that the whole point of the exercise is to bring people into the market area, to give people a reason to go to the market. Not only is that good for the vendors but also for surrounding businesses. At this time it is unwise, in my view, to proceed with this legislation. The city of Ottawa has simply not demonstrated the capacity to deal with the issues in a manner which respects the farmers' concerns and the long-term interests of the By Ward and Parkdale markets. For this reason, I would request that this committee either delay consideration of the bill until further amendments can be brought or dismiss the bill, thus obliging the city of Ottawa to review its current policies in this respect.

**Mr Gilles Bisson (Cochrane South):** First, I would like to thank the people who took the time to come today to hear what happens before this committee. Obviously, there is a lot of concern. I guess it's fair to say there is probably an attempt on both sides to make the right thing happen, but there seems to be a difference of opinion about how that happens.

Let me try to get to the point here. What I see happening is that the municipality finds itself in a situation where the justice struck down your bylaw and you've come before us asking us to give you the power to pass a bylaw within your own municipality to regulate the business of the market.

On principle, we agree that the municipality needs that ability. Obviously, as the province, I would not want to be the one to tell you how you do your business regulating that particular farmers' market. On the other hand, I am quite concerned about some of the communications I've received from farmers in the area who really worry about what this bylaw is going to do to them.

I'd be really interested in hearing from both sides a little later your views of what this bylaw would mean in terms of individuals presently in the market doing business. Simply put, will this mean the small farmer or farming community that presently has access to the



market may in the future be shoved aside to make room for the larger agricultural businesses that are corporate entities and not family farms and family businesses? If that's the intent of Ottawa, there's no way I can support this.

The only other thing I find a little bit bizarre is that—maybe it's because Bill 26 wasn't written at the time you came forward with this bylaw—the way I see it we can pass or reject this bill today and in the end you, as a municipality, can do what you want to do under Bill 26.

I wonder why we're at this point, because under the licensing provisions of Bill 26 and the general licensing powers, it's fairly explicit under section 257.2 that the municipality has the power to do what it is you're setting out to do under this particular bill. So good, bad or indifferent, I think that's the reality.

If you take a look at what the bill says, the bill says "the council of a local municipality may pass bylaws for licensing, regulating and governing any business carried out within the municipality,

"(2) Without limiting subsection (1), the power to license, regulate and govern a business under subsection (1) includes,

"(a) the power to prohibit the carrying on of or engaging in the business without a licence;

"(b) the power to grant or refuse to grant a licence;...

"(c) the power to define classes of businesses and to separately license, regulate and govern each class" etc.

It does pretty well what we said it was going to do with some of the concerns we raised when Bill 26 was being brought forward. There are two things I'd like to hear from both groups: What's going to happen to the individual farmers who are presently selling within the market should this bill pass, and I need some very clear information on that, and the second thing, if this thing is defeated, I take it the municipality will just pass a bylaw under Bill 26 and I'd like to have your comments on that. Short of that, we have some amendments we'd like to bring forward later that might deal adequately with some of the issues raised by the farmers.

**Hon Norman W. Sterling (Minister of Consumer and Commercial Relations):** I'd like to thank members from my party who are members of the committee. As you know, I'm not a member of the committee but I have a right to speak on this matter.

Having been born and raised in the city of Ottawa, and having spent the first 22 or 23 years of my life within I guess 10 blocks of the Parkdale Market, I am very much aware of the nature of the market and the long history of it. I also am quite aware of the very significant economic impact that particularly the By Ward Market has on the overall economy of Ottawa-Carleton.

I represent an area which is to the south and west of the city of Ottawa, which includes perhaps the high-tech centre of Canada, the city of Kanata, but also within my riding I have many farmers. Mind you, not many of them would be utilizing the By Ward Market and the Parkdale Market, but some would from my area.

This issue, to me, is one about what we should be doing here at the provincial level and what city politicians should be doing at their level. I get angry from time to time when city politicians start discussing issues which

are not within their purview. I read about it in the paper and I say, why are they wasting their time dealing with such-and-such a matter when they have no legislative powers in that area and, quite frankly, it's not their business? That's the business of the federal government or the provincial Legislature or whatever.

When I look at this issue and you look at the history of the By Ward Market and the Parkdale Market, our city politicians have been very successful in regulating that area for a period of over 100 years. The rules have changed over that period of time on a number of occasions, as Mr Guzzo indicated to the committee. They have been successful, in terms of what has happened in the past, with regard to developing the By Ward Market, in particular into a major tourist attraction. I think the city councillors of the past should be congratulated on the regulatory framework they put forward. But I believe good politicians not only can look to the past, but must look to the future and see what is happening to their assets.

**1040**

I believe that had I been on city council and voted on the particular bylaw, I might have been on the minority side on this particular matter, but I don't know whether I would have been on it because I don't know enough about the issue.

When politicians make decisions, they have to balance the various interests that are involved in bringing forward a regulation or a piece of legislation. There are the interests of the farmers. There are the interests of the tourist and economic potential of this particular aspect. They have to consider the property taxes businesses have to pay where they have full-time stores as opposed to having stalls at the market. I believe that's the job of city politicians, to balance those interests and come up with the right answers. So on the bottom line, I give this bill my unqualified support. I trust the politicians of the future to make the right decisions in reaching the proper balances with the marketplace, because they have done so well in the past.

**The Chair:** At this point I ask the applicants if you could vacate the witness table, and referring to our agenda, we have a number of interested parties who wish to speak. The first person on our agenda is Mr Labelle.

**Mr Pierre Labelle:** Good morning and thank you. My name is Pierre Labelle. I'm the part-owner and manager of the Château Lafayette hotel in Ottawa. The Château Lafayette is a small family tavern run by members of the family.

There are three major stakeholders here: There are the consumers, the farmers and the businesses on the By Ward Market. One thing that has been said about the By Ward Market is that it's the third-largest tourist attraction of the city, but one thing that has been left out is that the By Ward Market is the only farmers' market in Canada that operates on a seven-day-a-week basis for a period from April 15 to approximately November 15, 12 hours a day. It's very unique.

You'll hear from other people after I have spoken, like Mr Philip Waserman who's the chair of the BIA, the business improvement area for the By Ward Market. He will state that the businesses fully support the city of



Ottawa's position on Bill Pr42. My associate George Stairs and I have gone to the businesses on the market, door to door, all storefront businesses, and canvassed them and asked them if they supported the city's position. They do not. We have a petition of over 200 businesses that have signed and said they do not support the city's position. Businesses do not support the city's position.

Also, you will hear from Gerry Rochon, who is a self-appointed president of the By Ward Market Growers' Alliance, who says they have an association. We have an association. The small family farmers who have joined us here today have an association called BAM. There are 121 of them whose livelihood here is at stake. They have stated and signed how many years they have been on the market and how many acres they farm within the regional municipality of Ottawa-Carleton. They've also signed a petition stating that they oppose this legislation.

The biggest thing when we walk through the market and talk to our neighbours is that we have to wonder why we are such special consumers in Ottawa that we need a municipal government to legislate to us what we can buy, where we can buy, when we can buy, how we can buy and at what price. We took a petition of the consumers and the shoppers on the By Ward Market last year for a two-week period. This is the result of it. There are 30,000 consumers who shop on the By Ward Market who say, "No, we don't want this legislation."

The three major stakeholders have spoken: the businesses, the farmers and the people. We urge you to listen to them. The real people here, the farmers, have a lot at stake. If this legislation is passed today—we want to kill it at the committee level so it doesn't go any further—you're looking at the small family farmers from the Ottawa area out of work. That is not the agenda for this committee, to put people out of work.

The city of Ottawa does not need special legislation to govern the By Ward Market. We do not need municipal trade barriers so that product from Leamington, picked in Niagara, Durham, other parts of the province, cannot enter the market. Let the consumers decide, tell us, dictate to us what they need on the market, not politicians. We urge you to kill this bill today.

**The Chair:** Before we go to the next interested party, there are questions for Mr Labelle.

**Mr Trevor Pettit (Hamilton Mountain):** Thank you, Mr Labelle. I'm just wondering, in your view, why do you think that—how old is the market, 150—

**Mr Labelle:** Approximately 160 years old.

**Mr Pettit:** Why do you think the city feels it needs to have these special powers to run this market after this length of time?

**Mr Labelle:** That question has been asked of me at least 100 times over the last two days here in Toronto and unfortunately, I do not have an answer for you.

**Mr Pettit:** Okay. Can you give me some idea of the numbers, the membership as far as the BAM and the BIA are concerned?

**Mr Labelle:** The BAM, which is the Business Action for Markets, has a membership of 121. We canvassed over 200 storefront businesses on the market and the BIA, I believe, claims to have a membership of 350.

**Mr Pettit:** The BIA?

**Mr Labelle:** The By Ward business improvement area, which is basically the—

**Mr Pettit:** Is the entire BIA in favour of this bill?

**Mr Labelle:** No, they are not. Unanimously, they are opposed to it.

**Mr Pettit:** What was the public reaction to bylaw 55-95?

**Mr Labelle:** Thirty thousand people said, "We don't want it."

**Mrs Sandra Papatello (Windsor-Sandwich):** I have one quick question, Mr Labelle. In this bill there are two areas that if they were removed, deleted or altered, you might be comfortable with it, and it deals with the issue of produce that is sold that is not grown by the farmer directly.

In all the submissions that were made to me, and I'm sure all the committee members, if those areas, if those clauses were changed or removed, it would still allow the city to have the kind of control that it wants and may eventually get through Bill 26 anyway, in terms of the layout, of the restrictions. It seemed to me that the biggest comment was the issue of farmers not being able to sell produce they didn't grow, and if that's the significant issue, that they can still bring it in because they need to have additional revenues when their own products are out of season etc, they've got to maintain a cash flow and it's just not viable for them to do otherwise. If we were to make those changes in the bylaws, would you feel comfortable with this bill?

**Mr Labelle:** No, we do not feel comfortable with this bill at all. We do not feel that the city needs or requires special legislation for a four-block area of a city. That is totally out of the question as far as we are concerned, and the business people within the market have said so. They do not support the city's application for Bill Pr42.

**Mr Bisson:** I will ask you the question I wanted an answer to in my previous comment, which is, if this bill passes, does this mean that small independent businesses will be jeopardy of larger agricultural businesses coming in and taking over the market?

**Mr Labelle:** That seems to be the intent of the city with this, to bring in the mega-farmers and do away with the small family farmers.

**Mr Bisson:** All right. I would follow up by saying, if we were to put forward an amendment that said, clearly, that can't happen, where would you be at then?

**Mr Labelle:** I still don't support the application for Bill Pr42. There is enough in the Municipal Act, as you have pointed out, that they can legislate to run this market effectively and efficiently. It has for 160 years without special powers.

1050

**Mr Bisson:** But here's my fear: Let's say Pr42 is defeated today. The municipality will have the power to do what it wants under Bill 26. Would you not be better served if we were today, under this bill, to put in some safeguards that ensured the viability of the local farmers and the local businesses that are relying on the market?

**Mr Labelle:** That's a hypothetical question at this point and it's very difficult for me to answer without looking at both points and really studying them. If I could have some time to look at it, then I would be in a position to answer more fairly.



**Mr Bisson:** I'll pass and I'll talk to you in a minute.

**Mr John Hastings (Etobicoke-Rexdale):** Mr Labelle, if you're opposed to the bylaw, if you're opposed to any of the amendments that either party could bring forward, then what would be your specific alternative in terms of common talking points that the councillor mentioned, that there are some common elements of agreement? What kind of an arrangement would your folks be amenable to if it could be worked out with the city?

The city I was a councillor in for many years does not have a bylaw, but it has a specific contract worked out with each of the specific craftspeople or vendors who come there every Saturday, and they must abide by those elements of that contract, including advertising. The types of products must be grown by or made by the folks who are exhibiting them. They must stay the hours etc. You can't just have no rules. So what kind of rules are you in favour of if you're not in favour of any kind of bylaw, special or otherwise?

**Mr Labelle:** The bylaws are in place right now for the city to act and govern its own market. This is what we are opposed to. We are not opposed to bylaws; we are opposed to a restrictive and discriminatory bylaw such as 55-95.

**Mr Hastings:** Mr Bisson has made a very good point with regard to Bill 26. Bill 26 gives the municipalities, under the new powers, considerable latitude in the types of bylaws they can introduce determining consumer behaviour, determining the types of arrangements they can have as to farmers' markets through the licensing powers contained in Bill 26. Mr Bisson is raising a concern that if this particular bill goes down the drain, you're going to end up having the city have wider powers under Bill 26 and it's going to be able to impose even more rigid criteria than this special legislation. I'm wondering if you're really acutely appreciative of that viewpoint, even though you may not have read Bill 26.

**Mr Labelle:** I have not read Bill 26, but as a businessperson and having been on the market for many generations, what concerns me the most is how a municipality can try to enforce a 40-page bylaw for a four-block area. This is why we are opposed to Bill Pr42. We have seen amendments, we have seen 40-page documents of bylaws that are totally unenforceable.

**Mr Hastings:** I know what you're opposed to. What are you in favour of? What specific things could you work with, and with the city of Ottawa, so that you end up making a vibrant market vital to all the folks involved? What are the common elements you can work towards?

**Mr Labelle:** Let the bylaws that are in place now govern the market.

**Mr Hastings:** That's a half-answer.

**Mr Labelle:** No, it's not really, because there are guidelines such as L-6, which was introduced in 1994 or amended in 1994, to safeguard from chip wagons taking over the market, to safeguard from Michelin tires being sold on the market. Those guidelines are in place.

**Mr Hastings:** I tried.

**The Chair:** I'd just ask for some advice from members of the committee. We now have 10 questions just for the first interested party. We have seven or eight interested

parties to speak this morning. I would just ask for a word of advice, given the time constraints.

**Mr Morin:** If you don't mind, just give us a chance to ask him a few questions in line with what the others had.

**The Chair:** Oh, certainly. You have a word of advice?

**Mr Frank Sheehan (Lincoln):** I wanted a question.

**The Chair:** I have you down. I would suggest perhaps we could coordinate the questions a bit.

**Mr John O'Toole (Durham East):** The only suggestion I'd make is that perhaps we could go into a time limit for questions. That would make us rethink whether or not it's valuable.

**The Chair:** We normally don't have a time limit in this committee.

**Mr Shea:** Let's just keep at it.

**The Chair:** All right. Mr Lalonde or Mr Morin?

**Mr Jean-Marc Lalonde (Prescott and Russell):** Having worked in the market for many years in the past at A.J. Freiman and seeing the achalandage that was going on there and seeing the farmers moving in very early in the morning, I wonder, if we were to support this new bill, how many of those farmers who are there—some of them have been there for as long as 100 years, because we're going back four generations—will be prohibited from continuing to sell in the market.

**Mr Labelle:** Under the present system, all of them, except for maybe two of them, would be prohibited from selling on the market.

**Mrs Marion Boyd (London Centre):** Your concern about whether or not the representations of the business people in the area have been correct really troubles me, because you're saying that although we have letters of support from a number of groups which purport to represent the business people, that's not correct and that is overridden by the kinds of petitions and letters you have. That puts us in a troubling situation, because I know that some of the people who have purported to be representing those business people are going to be testifying. I wonder if you could just explain to us where this discrepancy comes in.

**Mr Labelle:** This is how George Stairs and I got involved in this matter, when a letter came across my desk which had been addressed to the Honourable Noble Villeneuve, Minister of Agriculture, emphatically stating that the BIA, the business improvement area, fully supported the position of the city on Bill Pr42. When I read that, it alarmed me. I had never been consulted; I had never received a phone call from anybody asking my opinion. This is when I, by myself, and George Stairs undertook to go to the different businesses, the storefront businesses, and ask them if they supported the city's position on Bill Pr42, and they did not.

**Mr Morin:** My question is somewhat in line with what Mr Hastings has been asking. You have perhaps a bit of difficulty in expressing what you really feel, and I'm trying to help you here. To do away with regulations, I mean, don't dream of that.

**Mr Labelle:** Not at all.

**Mr Morin:** You need regulations. However, it seems that there exists at the moment a confrontation between the farmers and the city. It seems to me that it has reached a point where you can no longer discuss. What



if the city was to agree to take a breather, like you would agree to take a breather, un moment de relâche, to say, "Okay, let's sit down, let's settle our arguments so that we can create a bylaw which will be satisfactory to the city, which will be satisfactory to you and to all the business people"? That takes a little while, because if the regulation was to be passed immediately, you and all the farmers would be totally destroyed or disappointed. But if you were to look at it again—because it seems to me that you can no longer communicate—whatever is proposed, you'll object to it.

1100

Why not delay the matter for a few months, perhaps, if the city is willing to do that, because it has the power, as Mr Bisson has expressed, through Bill 26, and it may implement something which is even worse than what you have now. So to sit down with the city—I'm sure all politicians, in my opinion, do like to sit down and come to a conclusion which is agreeable to everyone, and we see this every day. Then it's a question of saying maybe the city isn't there yet to respond, but back off a bit, cool your tempers, come back and come out with something which is agreeable to everyone. Perhaps that is a solution. What do you say to that?

**Mr Labelle:** It's difficult for me to speak for the farmers. You'll be hearing from Michel Roy in a moment on that. I can only speak from a business point of view and emphatically state that we as business people on the market need the farmers to survive.

**Mr Morin:** We all agree with that.

**Mr Labelle:** I know we all realize that, but I can't speak for Michel, who is president of BAM, and say, "Are you willing to negotiate with the city?" It's very difficult for me to answer that question for him.

**Mr Morin:** Sure. Is Michel here?

**Mr Labelle:** Yes, he is.

**Mr Morin:** Could you ask him? Michel, would you come forward?

**Mr Bisson:** Chair, afterwards, I have a question of legal counsel on the bill, when we get the opportunity.

**The Chair:** State your name, please.

**Mr Michel Roy:** Michel Roy.

**M. Morin:** Michel, est-ce que vous préférez que je vous parle en français ou en anglais ?

**M. Roy:** Ça n'a pas d'importance. Bien, en français.

**M. Morin:** Laissez-moi vous expliquer ce que j'ai raconté à votre collègue tout à l'heure. Si par exemple, au lieu de passer le règlement ce matin de façon concrète ou encore de le rejeter, la ville acceptait de prendre un moment de répit, un moment de repos, un moment de calme, parce qu'il semblerait qu'il y a de la difficulté, que les communications ne sont plus là. Personne ne veut se comprendre. Mais s'arrête avec la bonne obligeance de la ville, se détacher pour une période de peut-être un mois ou deux mois, discuter encore avec vous pour que vous puissiez arriver à une entente qui soit agréable, qui soit acceptable par la ville, par les fermiers et par les «businessmen», de cette façon-là du moins avoir peut-être quelqu'un qui sert au lieu de vous et pour transiger, tout ce que je verrais dans cette question-là, c'est que tout le monde serait heureux. Tout le monde aurait le temps, mais une situation parfaite n'existera jamais.

Par contre, donner l'espoir à la ville d'être capable d'arriver à une conclusion, parce que je suis assuré que les représentants de la ville ont le même but que vous d'arriver à une conclusion qui est agréable, qui est acceptable pour tout le monde, qu'est-ce que vous pensez de l'idée ?

**M. Roy:** Dans le passé, et nous sommes la majorité des fermiers, nous avons demandé fortement à la ville d'Ottawa de nous entendre. Ils ne nous ont pas écoutés l'année passée. Cette année, un lundi au mois de mars quand il y a eu une réunion à l'hôtel de ville, nous avons spécifiquement demandé ce que vous disiez tantôt, qu'il y ait un temps de relâche, qu'il y ait un temps pour nous d'aller au marché, de faire une année complète et que ce soit reporté au mois de novembre 1996 pour qu'on puisse discuter toutes les parties non discutées à ce moment-là. Présentement, c'est presque impossible d'en parler pour les prochains mois ou deux mois parce que nous sommes dans nos serres, nous allons être dans nos champs, nous allons être au marché ; vous savez qu'on travaille 12 heures, plus que 12 heures, des fois de 15 à 20 heures par jour, sept jours sur sept, pour les prochains six, huit mois.

Nous avons fait cette demande à la ville d'Ottawa et ils ont carrément dit non, donc je suis d'accord pour que la ville d'Ottawa puisse nous parler, puisse parler à toutes les parties impliquées.

**M. Morin:** Il s'agirait tout simplement de demander l'autorisation à la ville. La ville reviendra tout à l'heure comme témoin.

It would be our responsibility to ask them if they would be agreeable to that. I understand your situation. You are growing things at the moment, it's the busiest time of the year, but at the same time I'm sure the city has heard now that you would be willing to sit down and come to a conclusion which would be agreeable to everyone. But for this, because I'll repeat again, it seems to me there is a confrontation that nobody wants to listen any more, and it's not by pushing things or making it difficult for you that you'll agree with it, if I make myself clear.

**Mr Roy:** Could I add some comments?

**Mr Morin:** Yes, certainly.

**Mr Roy:** I'd like to point out also that there is a bylaw right now that exists. It's existed since October 6, 1995. It's called bylaw number 191-95. Last year, after this bylaw was in place, there was nothing wrong with the market; in fact the market revived. The people, the customers, came back to the market and they were happy to see the vendors or the farmers in their stalls. The customers could have choice. The prices were right and also everybody was happy. This bylaw still exists at this point in time. The reason why we don't want Bill Pr42 to be accepted is that it returns bylaw 55-95 that was in place last year. It has all the indications in it for which we will present to you eventually that it's the base of bylaw 55-95, and that's what we're afraid of.

Yes, we have asked the city to listen to us. We have asked the city many times to sit down with all the parties involved, and they have said no because we're not probably in Ottawa, we don't reside in Ottawa. I have yet to see farmers in Ottawa itself, you know. We are the fourth or fifth generation at the market that worked this



market up for 160 years. What was wrong in the past we don't know, and now, with those regulations that Bill Pr42 asks for, it will kill the market, it will kill our businesses, it will kill all the generations that we've—we have 120 members, and that's it.

**Mr Morin:** Just one minor, little point. If I understand you well then, you would be willing to talk to the city again, cool-headed and come out with a solution which is agreeable to everyone?

**Mr Roy:** Yes. Only in the fall. We don't have time right now.

**Mr Morin:** It's up to the city to decide, but don't forget that if the bill doesn't pass here, they also have another tool which they can use and the situation may not be as good as this one. So I'm saying we'll be asking the city to see if they would be agreeable to do that.

**Mr Sheehan:** I have a point of clarification: Under the existing bylaw, does it govern the use of the stalls, does it govern the allocation of the stalls, all these things that are prescriptive in this thing? Do they cover that area now?

**Mr Roy:** It covers the bases to have a strong, viable market, yes, it does. I have the bylaw here in front of me, and it has all the city needs to have to be able to function the markets.

**Mr Sheehan:** I hate to admit a little bit of ignorance, but under Bill 26, are we not just really giving the municipalities the right to charge fees for the various processes or services they provide?

**The Chair:** Is that directed to Mr Shea?

**Mr Sheehan:** Derwyn, I think, please.

**Mr Shea:** We were counselling here. I'm sorry.

**The Chair:** Would you repeat the question to the parliamentary assistant.

**Mr Sheehan:** Mr Shea, I stand to be corrected, but under 26, does it not permit the municipalities to charge fees etc, but it doesn't allow them to get into this prescriptiveness that is being set out in this act? Am I correct?

**Mr Shea:** Yes, and that's part of a question the solicitor is dealing with right now for Mr Bisson. Maybe we could ask her to respond to your question directly so the entire committee can have the benefit of that question. Would you phrase it again for the solicitor?

**Mr Sheehan:** My understanding is Bill 26 permits the municipalities to charge various and sundry fees for whatever services where they're providing for the inhabitants. It does not permit them, it is my understanding, to get into writing prescriptive bylaws such as presented here this morning. Am I correct or have I missed something?

1110

**Ms Kelly Yerxa:** I think you're partially correct. What Bill 26 does is allow municipalities to charge fees, and that's a lot more open than it used to be, as a result of Bill 26. It also allows municipalities to regulate in a more open fashion than was allowed before. However, my understanding of what Bill Pr42 is doing goes beyond that, and what this bill is doing is giving the municipality the authority to establish the market in the first place, so in that respect Bill 26 does not cover this off, but I expect Mr Bellomo will want to speak to that.

**The Chair:** Are you finished, Mr Sheehan?

**Mr Sheehan:** No, but you just blew my question. Give me half a second. Maybe it will come back to me.

If they're precluded from setting out this thing which seems to me to be overly prescriptive, I have a problem when they say they'll admit to one amendment to clause 3(1)(e) but they didn't propose amending clause 3(1)(l) which covers off the point about "who have not grown." Do you have a solution for what Mr Hastings is saying, any way to get at this, or can you explain to the committee what your perception of the city council's moves are?

**Mr Labelle:** Are you asking myself or Michel?

**Mr Sheehan:** Either one of you, or both.

**Mr Labelle:** Do you want to answer the first part, Michel?

**Mr Roy:** Can you repeat the question, please?

**Mr Sheehan:** I need some help. You're down there, we're not. What is going on in their minds? If they say they're prepared to amend the bill by getting rid of "based on their point of origin," but they overlook removing another section which talks about "have not grown them." Maybe you'd explain to the committee—perhaps this is a better way: What happened to the wild berries when this bylaw was passed? Can you help me out there?

**Mr Roy:** There are many points to this Bill Pr42 that we don't agree with. Their "point of origin" is only one simple item in this paragraph, but if you looked at the paragraph in its entirety it still says "and prohibit or restrict any type," and then they strike off "based on their point of origin," but they still have "and prohibit or restrict any type, the time of year, the percentage actively and directly produced or created by the person who is applying for the use of the market stand or any other criteria established by the council of the corporation." "Any other criteria." What is that? It could be still the point of origin afterwards. Any other criteria is a big bag that could have a lot of things in it. Striking off only one item, "on their point of origin," does not take everything off.

**The Chair:** Mr Lalonde, and state who your question is directed to.

**Mr Labelle:** May I respond to another part of Mr Sheehan's question?

**The Chair:** Yes, briefly.

**Mr Labelle:** You alluded to the fact of wild berries in your question, and that's a very good question. Under 55-95 last year, as we all know, wild berries are wild, nobody grows them. That means nobody can sell them; nobody can grow them.

**Mr Lalonde:** I will have to come out with some French words at times because I have respect for those people who came all the way down from my riding especially and do not understand English properly.

Pour les points soulevés par mon collègue Gilles Morin, je voudrais apporter l'attention des députés sur le fait que ce serait sage de retourner avec la ville d'Ottawa puisque, à la discussion que j'ai eue avec plusieurs personnes qui appuyaient le projet de loi hier soir surtout, la majorité des personnes n'ont pas vu le projet de loi.

They haven't seen the bill, the people who have sent letters supporting this bill, and I take by going back to



the city of Ottawa if they agreed with and also that they could meet with all the people, this person especially by the first name Denise, she says: "I want to make sure we don't kill the market." The Cl  roux family have safeguarded our market a few years ago when the market was down. Especially one person from way out, probably 50 miles away, she says: "I'm in the market two or three times a week, but the rest of the time I'm in Montreal." If the city of Montreal was to pass a bylaw similar to this one or come up with a bill similar to this one, she would be prohibited to go to Montreal.

The people are not concerned, they're not aware of what the content of this bill is, and this is why what my colleague Mr Murray came up with—it's very important that we go back to the table and inform every one of them who is involved in the market at the present time what the content of this bill is.

**Mr Bisson:** I'm going to go to legislative counsel. If I can just ask legislative counsel for the benefit of what's happening—just before I get to that, the concern, what you're worried about, is that the small business operators who are in the market now, or small business operators who may want to establish businesses in the market—I'm not talking about chains, but independent people—may be put in jeopardy in order to make room for a larger chain sort of operation. That's the fear here.

**Mr Labelle:** That's correct.

**Mr Bisson:** In this bill as it stands, if I understand it correctly, it doesn't specifically say that's what's going to happen, but is there a way to clarify, to make sure that this bylaw reflects that the market has to keep its sort of ambience that it has now of small independent business people and farmers who make a living there? In other words, sort of prohibit the large chains from moving in.

Let me rephrase: Does the bill allow the large chains from coming in now? That's what I'm asking.

**Ms Laura Hopkins:** The bill doesn't speak one way or the other to whether large chains can come in and can move local farmers out. We can draft into the bill a provision that states your intentions about that or states the city's intentions about that.

**Mr Bisson:** Okay. Because I take it—and we need the city. I'd really like to get the city back at one point. I can't believe the city would want to push out of the market the very people who are there now and the type of ambience that the market has. That would make no sense whatsoever and I can't see the city—if my community in the city of Timmins was to do that, I can tell you it wouldn't be me leading the charge, it would be everybody in my community trying to oust the people out of city hall. It seems to me that we all want the same thing here, but what's happening for whatever reason, there's miscommunication or misunderstanding in regard to what's happening.

I guess I would really urge, because my fear is—and I'm going to go back to what I said originally. I believe if you read Bill 26, Bill 26 gives very strong powers to the municipality to do what it wants to do when it comes to the regulation of what happens in the market. I would think it would be to everybody's best interest, quite frankly, that if we were to try to work this out under this

private Pr42 bill, the concerns that you have to make sure that the farmers and those independent businesses that are in there now are protected and we keep the intent of what the market is all about in place so that we're not in the end in a situation where the larger sort of chain operations can come in and take over.

I'm sure if we can get the city back at one point, the city wouldn't have a problem with that. If they're prepared to do that, are you able to live with it? If they're prepared to do that and to be explicit in their private bill here that they would not put you guys in jeopardy or the flavour of the market, would you be okay?

**Mr Labelle:** From a business point on Bill Pr42, the real danger of it is that it does establish municipal trade barriers. It gives too many powers to the municipality. We would rather deal with the Municipal Act, where it states that you cannot discriminate.

**Mr Bisson:** I'll wait until the city comes back, because I think we need to hear from the city on this point.

**Mr O'Toole:** First, recognition—I'm pleased to see that Mr Bisson is recognizing the value in Bill 26, and I mean that sincerely.

**Mr Bisson:** No, no. On a point of order: the danger, not the value.

**Mr O'Toole:** No, the empowerment to the local municipality that was given under Bill 26 and other areas. I won't prolong that discussion, but I think it's worth noting.

I really have two questions. The first question is to you, Mr Labelle. You operate, I gather from your stationery here, a hotel or tavern.

**Mr Labelle:** It's a tavern.

**Mr O'Toole:** That tavern has been in business for how long?

**Mr Labelle:** It's been on the market in the same place, same location since 1849. It's one of the original businesses on the market still in existence. We're the only original one.

**Mr O'Toole:** So you're there 12 months a year because of the physical structure.

**Mr Labelle:** That's correct.

**Mr O'Toole:** You're not there just during the market time; you're there for the long term.

**Mr Labelle:** That's right.

**Mr O'Toole:** I gather you would pay business tax, a property tax, of a considerable nature, if you care to talk about that.

**Mr Labelle:** Our municipal taxes since 1992 have risen to the amount of approximately \$4,800 a month—excuse me, every 30 days.

**Mr O'Toole:** A month? That's \$60,000 a year. Is there any question about the amount of avoidance in tax that the itinerant, if you will, merchants on the street would be paying? They would pay a stall fee or some other right-to-sell fee.

**Mr Labelle:** In my canvass of all the businesses on the market—and I'm quite active within the community—that is never a concern because we realize—

**Mr O'Toole:** They help each other.

**Mr Labelle:** Every business is dependent upon the other business to survive. That's the type of marketplace we are.



**Mr O'Toole:** One draws the other and the other supplies the other, so they've coexisted. But they wouldn't pay anywhere near \$5,000 a month in tax or licensing, would they?

**Mr Labelle:** You'd have to ask Michel, but I believe they pay half of that amount for a yearly or a seasonal stand.

1120

**Mr O'Toole:** Mr Labelle has commented. Mr Roy, perhaps I could direct the same question to you. You do business in a part-time or seasonal way, if you will, at the market. What sort of BIA tax, business tax and other fees would you pay, approximately, if you care to divulge that?

**Mr Roy:** We don't pay taxes directly to the city of Ottawa, we pay rent to the city of Ottawa. But we do pay taxes on our properties in Gloucester or Cumberland or any other municipalities. We also have big expenses that count as taxes, if you want. We have greenhouses, we have tractors. There's lots of overhead.

**Mr O'Toole:** What sort of fees would it be? I'm getting down to the nub of the whole thing, the imbalance. The city's ability to collect taxes is a foregone conclusion. It's a variable source of revenue, the licensing fees that the municipality would have. What would that amount be approximately per stand annually?

**Mr Roy:** The rent we pay to the city per stand is in the area of \$300 to \$400 per month.

**Mr O'Toole:** That answers the first question. My second question, again, is to Mr Roy. You're in, if you will, a market. The agrifood industry is an expanding, emerging, important sector of the Ontario economy, the whole Canadian economy, dealing with all sorts of free-trade-type issues, whether it's in poultry or whether it's in forestry products, you name it. My question to you is this. Are you prepared to compete at the By Ward Market or across the whole economy of Ontario or North America? Are you prepared for the competition?

**Mr Roy:** We have for the last 160 years.

**Mr O'Toole:** So you're very satisfied that whoever big comes in or small comes in, whoever can afford to do business is the person that should be there?

**Mr Roy:** I strongly believe there's a place at the By Ward and Parkdale markets for anybody who wants to sell fruits and vegetables, whether they're small or large. But by restricting or having Pr42 in place or any other restrictions preventing us from selling produce from our neighbours, even from our neighbours, and also from other parts of southern Ontario, then we cannot compete because our farms are too small. But we have in the last 160 years kept those farms, from anywhere from five acres to 20 or 25 acres, by supplementing our products with the neighbours, with southern Ontario, with any other parts of Ontario.

**Mr O'Toole:** Just one last point. I'm from the riding of Durham East and in my riding there's one particular producer, a rather young, innovative agrifood fellow or family—I guess it's a family business—Link Greenhouses, and they have a greenhouse where they grow year-round tomatoes and all sorts of produce. I'm sure they will be in your market in the future as he expands

his operation. You're prepared to compete. That's really the point I'm making.

**Mr Roy:** Absolutely, but I can tell that those big farmers usually don't want to be in the market anyway, because it's a market of small family farmers. That's what it is. They sell to us or to other people who will sell for them. They don't have time to go to the market and be in the fields at the same time, with a mega-farm.

**Mr O'Toole:** I appreciate your being here today and I thank you very much for your candidness. Thank you for the opportunity.

**Mrs Boyd:** There are two things. First of all, the preamble to Bill Pr42 clearly states that the purpose of the corporation in wanting this is that the corporation considers it desirable to maintain and promote its markets as strong, viable and attractive traditional producer-based farmers' markets. Preambles don't count for much sometimes but certainly the purpose is to try and do it.

It seems to me, as my colleague said, that the goals of the two opposing groups do not really seem to be that far apart. The way in which you achieve that is what seems to be at issue here, and I'm quite concerned because there seems to be this reluctance to recognize that, even without Bill 26, the municipality has used bylaw power to regulate this market in the past.

The particular regulations they wanted to come forward are regulations with which you disagree. But you're saying you believe they already have the power. Somebody remarked that Bill 26 is nothing to worry about, and the reason we think it's dangerous is that it gives this power to the municipalities.

My colleague read some of the things. Let me just read some of the other powers that the municipality has under Bill 26.

Under clause (f): "the power to impose conditions as a requirement of obtaining, continuing to hold or renewing a licence, including conditions," requiring the payment of licence fees, restricting the hours of operation, "requiring the persons carrying on or engaged in the business to allow the municipality at any reasonable time to inspect places or premises used in the carrying on of the business and the equipment, vehicles and other personal property used or kept for hire in connection with the carrying on of the business."

Then clause (g), which is the crucial one from my point of view: "the power to impose special conditions on a business in a class that have not been imposed on all the businesses in that class as a requirement of obtaining, continuing to hold or renewing a licence of the business." In other words, explicitly in Bill 26 the very discriminatory powers that you are objecting to in Pr42 are already law.

**Mr Labelle:** So why do we need 42?

**Mrs Boyd:** That's a good question, but your issue is you don't want 42 because you don't want the municipality to have those powers, and my point is that the municipality already has those powers under Bill 26. Whatever we think of the ability of a municipality to apply licensing situations in a discriminatory way, they already have that power.

What we're trying to say to you is, you may be safer to have this special bill, if we can get built into it some



of the conditions that will meet the concerns you have rather than just have the municipality go ahead under the power it has under Bill 26. In other words, it may be to your benefit to try and work with those of us who would like to see a few changes in Pr42 to protect exactly what you're talking about. That might be to your benefit as opposed to just having the municipality proceed under Bill 26.

**Mr Labelle:** That's a very difficult question to answer because I'm not a legal mind, and I'm not totally familiar with Bill 26, only having made myself totally familiar yesterday with Judge Paul Cosgrove's decision, which clearly stated that you cannot discriminate under the Municipal Act when you enact a bylaw.

**Mrs Boyd:** But you can under the revision to the Municipal Act that became law on January 29.

**Mr Labelle:** That's why I say I'm not a good legal mind.

**Mr Bisson:** She was the AG.

**Mr Labelle:** I realize that.

**Mrs Boyd:** I'm not a legal mind either.

**Mr Labelle:** You are.

**Mr Bisson:** She was the Attorney General.

**Mr Labelle:** I know.

**Mrs Boyd:** I'm proud of not being a lawyer and being the AG.

**Mr Bisson:** It gives you a different perspective.

**Mrs Boyd:** It does give you a different perspective, and it should be understandable to everybody. Mr Justice Cosgrove ruled on the act as it was. The act has since changed remarkably and specifically allows discrimination among classes of businesses, and it seems to me that the very argument he was putting forward under the old act and the way it was no longer would apply.

**Mr Roy:** Can I respond? I have some questions regarding Bill 26 which we are not aware of. We're simply farmers. You have to understand that we're not looking into the details. Specific classes: I say either you're a small farmer or a big farmer or you're selling fruits and vegetables. Okay? This is one class it seems. Does it allow in there to discriminate within the same class?

**Mrs Boyd:** Yes.

**Mr Roy:** It does.

**Mrs Boyd:** Let me read it to you. In clause 257.2(2)(e) the municipality has "the power to define classes of businesses and to separately license, regulate and govern each class." So they have the power to define the class and then they have the power to license under the class.

Section (g) says, "the power to impose special conditions on a business in a class that have not been imposed on all of the businesses in that class as a requirement of obtaining, continuing to hold or renewing a licence of the business."

What I'm saying to you is that, although you won a court case under the old act, the appeal that's going forward will look at the act as amended, and you may be wiser to try and get some of the protections that you want in Bill Pr42 rather than to let this simply go forward under the Municipal Act as it is.

**Mr Roy:** Could I just ask opinions from Jay Acton, who is helping us in this matter, because she has more legal background or any other background.

**The Chair:** Yes, go ahead.

**Mr Roy:** I have a question. I'd like to know if we can continue with the agenda and discuss the other matters afterwards.

**The Chair:** What was the question again? You're asking if we can continue with the agenda—

**Mr Roy:** If we could continue the agenda with the people who are on it, to be able to make our presentations, and then, afterwards, answer some of the questions that are raised.

**The Chair:** Yes, that's fine, if you want to delay that.

**Mr Shea:** And come back again?

**Interjection:** Come back with the answer.

**Mr Shea:** Then everybody has a right to do the same thing then.

**The Chair:** I would like to go on to the next question.

**Mr Pettit:** On a point of order, Mr Chair: It seems to me that, according to the agenda, we have three or four or five people all from the Business Action for Markets. Could that not be restricted to one presentation? Are there going to be two or three more representing the same group coming forward?

**Interjection.**

**Mr Pettit:** Just the timetable. Are we stopping at noon? That would mean that we're going to have to come back another week.

**The Chair:** That's correct.

**Mr Pettit:** We are stopping at noon, but we don't normally have four or five people for each group. Do we not do it as one presentation? In this case here—

**Interjection.**

**Mr Pettit:** I'm just curious, because it seems like there are three or four or five, whatever number of people coming forward for the same group, and it would seem that we could alleviate the problem by having one person or at least have them all do it at the same time as opposed to individually.

**The Chair:** I'll ask the clerk with respect to the listing on the agenda.

**Clerk of the Committee (Ms Lisa Freedman):** This committee works slightly differently than other committees, because it's actually written in the standing orders that if the interested parties contact my office they have a right to go on the agenda. This is the only committee that's bound by standing orders with respect to witnesses before a committee, the normal practice of this committee being if people contact my office, their names automatically go on the agenda.

**Mr Dave Boushy (Sarnia):** Mr Chairman, everyone should know that if we're going to stop at 12 o'clock, then we're going to have a meeting and we're going to bring them all back next week, everyone is going to speak—

**The Chair:** My understanding is if we go past 12 o'clock—we'll wait till we get there—we reconvene next week.

**Mr Bisson:** Just on the further point in regard to where we are on the agenda, if members wanted to hold back their questions in order to keep on to presentations, we can decide that as a committee, but I would warn the presenters that's a decision to be made by the committee. How many people do we have on the list at this point?



**The Chair:** It's about eight perhaps.

**Mr Bisson:** No, no. I'm talking of members who have questions, because we were in rotation.

**The Chair:** We have two questions remaining.

**Mr Bisson:** Maybe we can allow those two members to ask their questions and we can move on, because certainly I'd want to hear what the views are from the other members on this, so we can move ahead.

**Mr O'Toole:** I want to ask clarification to the presenters, if they all represent the BAM, if they could not all be at the table, because I do not think it's economically or otherwise viable for you to all return next week. You should all have the opportunity to be heard. I'm prepared to withhold my questions until each of you has had the chance to make sure—if you're not consistent with what Mr Roy has said, it would be important for us to hear the comments. I, for one, can say that I'll withhold my questions to allow you the privilege to address the committee and we've heard a full hearing, and then we can go along ad nauseam and discuss anything.

**The Chair:** I'm going to ask for a four-minute recess so we can chat about this and reconvene.

*The committee recessed from 1135 to 1146.*

**The Chair:** I understand there is agreement to group together some of the other presentations from our first interested party, and I would ask them to come forward now. This meeting is reconvened.

**Mr George Stairs:** I'll be the first one to speak and I'll make it very brief.

**The Chair:** Your name, sir?

**Mr Stairs:** George Stairs, like up and down; escalier en anglais.

Listen, it's simple. This is a problem that should be decided in the city of Ottawa, not here in Queen's Park. Queen's Park passes laws that protect both the municipalities and the citizens of Ontario, such as Bill 26 that we're discussing the merits of. The suggestion that there should be some Pr42 to protect us against Bill 26 is to suggest that one of the parties in this operation is acting in bad faith—in fact the city of Ottawa—and that's why we need protection from it. We're not prepared to agree to that. We think the city of Ottawa may have acted in bad faith in the past; we think they will act in good faith in the future. We're willing to live with the same law that every other Ontarian has.

Vote down Pr42 here today. Institute Bill 26. We'll deal with the city of Ottawa. We'll stop coming down here and wasting your time.

**The Chair:** Is there a second presenter? Your name, please.

**Ms Jay Acton:** My name is Jay Acton and I'm a businesswoman in Ottawa with a business marketing and community relations business two blocks from the By Ward Market. I've been working with the members of BAM, Business Action for Markets, for 10 months now, for the last eight months as an unpaid volunteer, because what's happening here is unfair and it's an insult to the democratic and the judicial processes of this province.

We don't want to insult your intelligence by asking you to prolong this any further. We are all in total agreement that we can live by the laws, as Mr Stairs has just told you, of this province, and we can work things

out in an amicable fashion with the city of Ottawa if you vote this down. Otherwise, we have to get into all the details of this piece of legislation, which is very, very unfair.

**The Chair:** Thank you. Could I ask you to vacate the witness table. With the permission of the committee, I wish to go on to the next party on our agenda, Bob Chorney.

**Mr Bob Chorney:** Thank you, Mr Chairman, honourable members. I sincerely appreciate the opportunity to speak here. Normally, when I speak to groups around North America about the exciting Ontario farmers' market story, I need two hours. So what I'm going to try to do is do that in about two minutes.

I'm the executive director of Farmers' Markets Ontario, which is the provincial association of Ontario's farmers' markets. Ontario is witnessing a very exciting renaissance of producer-based farmers' markets. In the late 1980s we had 60 farmers' markets across Ontario. Today we have 130 of them, so we've more than doubled the number of markets in the 1990s.

There are three main reasons for that: First, consumers want fresh. They want to be able to eyeball the farmer to find out what went into or on to the product and how to bring it to table. The second reason is that farmers want to market directly. I go around speaking to groups; I just last week was in Seattle and the week before that in Newfoundland. People say, "You sound to me like a guy on a mission." You want to believe that I am, because part of my mission is to help farmers be price-makers, not price-takers. So the second reason we have this boom of farmers' markets in Ontario is because farmers want to market directly.

The third reason we have this renaissance is because community groups are coming forward and championing farmers' markets. Of the 70 farmers' markets which I've helped organize, every one of them has been championed by some community group. We get a business improvement association saying, "We want to re-energize our downtown." We get an agricultural society saying, "We want to make better use of our land and buildings." We get a chamber of commerce saying, "Let's bring urban and rural together." We get a service club saying, "Let's do a worthwhile project in the community," or a mayor and council saying, "Let's create a people place."

Farmers' markets are good for the social fabric of a community. I can give you some very exciting figures for northern Ontario. Mr Bisson will be interested in this. I helped organize the market in Timmins and the one in Cochrane and the one in Kapuskasing, and the list goes on. And I've worked with Mr Boushy's market in Sarnia and am currently with the honourable member's market in Windsor-Sandwich over at Windsor.

In northern Ontario in the late 1980s there were seven producer-based farmers' markets doing total gross sales of \$100,000. In 1995, we'd gone from seven to 22 markets, and those 22 locations in northern Ontario did \$6 million in sales. So we saw farmers' markets' sales increase 60 times over in six summers in northern Ontario. Very exciting stories occurring in this province, and it's because municipalities are welcoming farmers to come in, to meet consumers in celebration. When one



goes to a farmers' market, there's a buzz in the air, there's freshness, there's fun. The northern markets coined the slogan, "Come for the freshness, stay for the fun." That's in fact what happens at farmers' markets, and we don't achieve that with hucksters and pedlars and non-farmers at markets.

The province of Newfoundland has engaged me to help them put a program in place, and you can rest assured it's going to be a producer-based program. I've spoken in every province in this country and the story is the same: They want farmers coming to town in celebration. We shouldn't forget that. I've done farmers' markets in New York state, in Quebec, in British Columbia. They want farmers coming to town. That's really what the city of Ottawa is saying: They want farmers at their market. It's as basic as that. They want farmers who produce the goods coming to market.

I'm going to end now, because you're really pressed for time. I ask you to vote in support of what the city of Ottawa wishes to do. The city of Ottawa is a very exciting market. It has perhaps begun to lose some ground because the farmers have not been allowed to come in in the manner in which they would like to come in. Think of Windsor. The honourable member for Windsor-Sandwich would be interested to learn that on March 18, mayor and council—I was at that meeting in Windsor. Mayor Hurst and council, in a vote of 10 to 0—the meeting went from 7 pm till 1 am. They were dealing with a relocation issue, but the most important decision that council made was—two decisions: number one, they want to stay in the market business; number two, they want to return to their roots. They want it to be a producer-based market.

I'm off to Windsor this afternoon to begin discussions and to begin working with them to begin to turn that market around. You've all kinds of silly things happen when you're not producer-based. The member from Windsor will be shocked, but I'll tell you the story: Twice in the last month a vendor at the Windsor market has gone over to Detroit and has taken tomatoes off the hands of a vendor at the food terminal over there who would have had to pay dumping fees or tippage fees to get rid of the tomatoes. Those tomatoes came back into Ontario, to the Windsor market, and were sold at that market: 30% of the load was sold at market in Windsor and the other 70% was dumped because that vendor at the Windsor market doesn't have to pay tippage fees and dumping fees. All kinds of funny things happen at public and farmers' markets. I can tell you some horror stories. What the city of Ottawa wants to do is to put some proper rules and regulations in place and take hold of the market they've owned for 160 years.

This is a picture of the Seattle Pike Place Market. It is probably the most successful public and farmers' market in the world. I can pass this around, but their signage says such things as, "Meet the producer: Farmers' Market." That's what the city of Ottawa's saying: Let's meet the producer at market.

I plead with you to support what they're trying to do. If you don't, you're going against the flow of what's happening in this province. Go with the flow, please.

**The Chair:** Any questions?

**Mrs Papatello:** Thank you, Mr Chorney. I appreciate your comments, particularly as it relates to the Windsor area. You must know too, then, if you were participating, that the tenants of the Windsor market are also very unhappy right now with outcomes. Many of them of course are farmers and they're not happy.

I just wonder if you can comment on the difficulty you must find yourself in, given your position with the organization and association and the fact that the majority of people who are farmers in the market are not pleased with the direction it's going in, and yet you do represent farmers as part of your association. I know it's difficult. This isn't an issue I think anyone is enjoying, but there are so many testimonies, I guess, that the farmers need the ability to at some time bring produce to sell other than what they grow, but that obviously their mainstay is what they grow and therefore what they sell. I'm thinking in terms of them being consumer- and market-driven.

When I go to the market, I'm looking for particular things. If I'm going to not be able to find things simply because it's not grown in Essex county, then I'm going to go to Loblaws or I'm going to go to Dominion, wherever I'm going to find it, and that's the very thing that markets are trying to avoid. So the very essence of keeping Sandra going to the market are the things that you potentially will take away. Markets around Ontario, as you mentioned, have faced issues like the super-supermarkets and all kinds of competition, and yet markets have remained strong and in many instances have found a way to be market- and consumer-driven. So you must find yourself in a difficult position, because you must not have the support of all the farmers who are currently selling at the market. How do you respond to that?

**Mr Chorney:** I realize we're dealing with Ottawa, but I think Windsor is now where Ottawa will be five or 10 years from now unless they clean up their act, and I think they're attempting to clean up their act. The farmers and the vendors in Windsor are unhappy because of the location they want to go to, which is not in harmony with where the city wants them to be, but I don't think there's much argument that they have to return to their roots of producer-based.

I was at a meeting on Foodland Ontario yesterday and they spent \$140,000—well-spent dollars, in my opinion—on consulting fees to determine consumer and usage attitudes. One of the things the Ontario consumer is saying is: "We want fresh. We want Ontario." You all see the Foodland Ontario ads: "We want fresh. We want Ontario."

In your riding, Dr Alfie Morgan of the University of Windsor was commissioned in August 1994 to do a study on the attitudes of consumers in Essex county, and it's no different in Ottawa. I suggest to you that we could do a study in every county in Ontario and come up with the same result: 98.1% of Windsorites said, "We want local produce at our farmers' market." In an alternative, 91%, "It must be at least Ontario," not the garbage we're bringing across from Windsor, or not the stuff we're bringing in from Montreal.

*Interjection.*

**Mrs Papatello:** You meant Detroit, didn't you?



**Mr Chorney:** From Detroit, sorry. Pardon me, Ms Boyd. Thank you. So Ontarians want fresh, and we do that with farmers at market.

I won't get into all the problems in Ottawa, but in my sense, the city of Ottawa is working very hard at trying to make things right.

**Mrs Papatello:** But just in terms of my question, the restrictive nature of some of the elements of this bill and that it puts the very farmers you represent at odds with it, and your position in terms of the association and the farmers in the market who aren't pleased with it, this bill prohibits tomatoes from Leamington to be sold in Ontario in some places, namely, your two markets in Ottawa. As an Ontario legislator, then, how can I support Ontario produce from my end of the province being restricted somehow for sale in Ontario? Your association represents Ontario produce and promotes Ontario produce, and this bill is restricting the sale of Ontario produce in some places. I see that as a diametrically opposed version of your association's mandate.

1200

**Mr Chorney:** I do not, in fact. I think what we're dealing with at Ottawa is people coming to market posing as farmers who perhaps have one acre of land and bring 50 acres' worth. Those are the sorts of issues they're trying to sort out.

**Mrs Papatello:** You do agree that Leamington tomatoes would be prohibited from sale at your market in Ottawa?

**Mr Chorney:** It's my sense that would be the case in season, correctly, as they should be.

**Mr Bisson:** I have three questions. I take it what you're saying is that you want the city of Ottawa to be able to regulate the practice in the market to make sure you have a good way of doing business so that you don't have some of the horror stories you referred to happening in the Ottawa market.

**Mr Chorney:** Absolutely.

**Mr Bisson:** You're satisfied that this bill will do that?

**Mr Chorney:** Yes.

**Mr Bisson:** The second question is on the point of origin, and I just pick up on the point that Mrs Papatello made. I understood that the bill would prohibit produce from being brought in from outside of a 70-mile or 70-kilometre radius.

**Mr Lalonde:** Seventy-five miles.

**Mr Bisson:** A 75-mile radius. I have some difficulty with that, because I would like to see Ontario not have a bunch of trade barriers within it. What's your view on that, or am I misunderstanding what's in the bill?

**Interjection:** It's been removed. It's in the amendments today.

**Mr Bisson:** Okay, that's what I'm saying. With the amendment—

*Interjection.*

**Mr Bisson:** I have the amendment here and it hasn't been tabled. All right, so if the point of origin is taken out, you're okay?

**Mr Chorney:** Yes.

**Mr Bisson:** The last question is: Do you fear that this legislation could put at risk independent farmers who operate at the market in favour of larger, mega-operations?

**Mr Chorney:** Not at all. Last summer there were 10 strawberry farmers at the By Ward Market; for the first time in years, 10 local strawberry growers selling at market. There was a heck of a celebration occurred there. It hadn't happened before. If you're suggesting that small farmers will become at risk because of this particular bill, not at all.

**Mr Bisson:** So you don't worry that the people who are there now may be pushed aside over the long term in favour of larger, mega—

**Mr Chorney:** Not at all.

**Mr O'Toole:** I appreciate very much what the questions have been. Specifically at By Ward, would you think that there would be an appropriate time for grapes from Niagara to be sold?

**Mr Chorney:** Yes, I would think that—

**Mr O'Toole:** Then you're into regulation, and it's into someone else saying this is or couldn't be a local crop. The government of Ontario is not in that business of micromanaging.

**Mr Chorney:** That's right.

**Mr O'Toole:** If I look at some of the prescriptive attitudes in this bill, "prohibit the sale or offering for sale of agrifood products by persons who have not grown them," I put to you the question, "Who grew the wild blueberries?" What if I'm growing vegetables and my next-door neighbour is growing vegetables and we've mutually decided, "I'll grow the carrots and you grow the onions"? Who gets to sell them? Both of them or one of them? It's so prescriptive that I don't think, from a provincial standpoint, we should be micromanaging every—I think there are requirements to regulate which I've heard in the previous bylaw were satisfactory arrangements. I'd like to see the municipality work it out with the three constituent groups, which they have a duty to do, or we'll see you at the polls. The province should not be prescriptive and should not set something for Leamington or Windsor-Sandwich or Durham East. The market prevails, and I agree that producers create the excitement, the synergy you're talking about, and I'd question, where's the fish from, if it happens to be Atlantic fish?

I've made my point, and I question if your presentation is not the same at Windsor or Peterborough. Yet it's by nature emotive. Do you understand what I'm saying?

**Mr Chorney:** Yes.

**Mr O'Toole:** When I'm there and I have a stand and I've legitimized myself through the bylaws and I'm selling carrots and corn and all the rest of it, and I'm able to get very good Ontario produce from Leamington or from Durham East if I can transport it and pay the costs and do all the stuff to get it there and make sure it's fresh, those are business decisions that are best made by the business people, not by some person sitting behind a desk in Ottawa or certainly in Toronto.

**Mr Sheehan:** I just have one question because Mr O'Toole grabbed my speech, I think. Very good, Jack. You use the Seattle market as pre-emptive and you say meet the producer, but I've been to that market and they've got two of the best fish markets I've ever seen. I know for a fact that those people don't go out and cast their nets, and there are a lot of other producers where



I'd really question whether or not they were producers as set out in this act.

**Mr Chorney:** Were you there in summer when the farmers were in?

**Mr Sheehan:** Yes.

**Mr Hastings:** Mr Chorney, does your group or do you not subscribe to the idea of caveat emptor in the marketplace, meaning "Buyer beware"? I'm particularly referencing the use or misuse of the Foodland Ontario designation. That's my first question.

Secondly, if it is being abused extensively or on a narrow base, is there not a local way in which, through the contract, bonding or any other mechanism that's arrived at between the two parties, there can't be a substantial penalty placed on a vendor who is bringing in stuff that is not Ontario-produced or Ontario-crafted, rather than your approach which is that only from Queen's Park shall we do this?

**Mr Chorney:** I guess we're back to allowing the city of Ottawa to do what's right, and perhaps you should give them that opportunity. I don't understand your reference to Foodland Ontario, I'm sorry.

**Mr Hastings:** You were referencing the Detroit example of where produce is brought in internationally. Wouldn't the border and customs people have been able to detect that, or am I too naïve to assume that there's so much leverage going through that border point and other points that you have to have a Queen's Park solution in terms of using the Foodland Ontario designation for produce that's produced in Ontario versus that which is imported, and then they sell it under the Foodland name? Is that not your concern? Is it not a better way of doing that, protecting that Foodland Ontario name for products produced in Ontario, than simply through specific, special legislation?

**Mr Chorney:** I'm not suggesting that the vendors in question who imported bad tomatoes were selling them as an Ontario product; not at all. But I do suspect that the consumers didn't know where the tomatoes were coming from. I didn't for a minute suggest that the product was sold with the Foodland Ontario banner hanging overhead.

**Mr Hastings:** That is true, but there is an inference in most of the material I have read about the use of the Foodland Ontario guidelines and what's produced. If there is a violation of the designation, is there not a better way, a local-based solution, if somebody is caught bringing foreign produce, Quebec or wherever it's from, into a local farmers' market, than simply by a Queen's Park special piece of legislation? Can't it be built into a contract?

**Mr Chorney:** Absolutely. I think the solution should come forward at home, locally, and not in this room. I guess you have an opportunity to dispose of this matter by telling Ottawa to go ahead and do what they have to do and perhaps send a signal to other groups across Ontario that you don't want to see them here again.

**The Chair:** Thank you, Mr Chorney. You have a question of whom?

**Mrs Pupatello:** Of counsel. I can't ask the table, but I think it's specific to the amendments. When Mr Bisson put the question regarding the 75-mile radius, the response was that the amendment that was presented

managed that. I only have two amendments so far that were officially presented, and the one I'm assuming relates to the 75 miles then, their point of origin.

**Ms Laura Hopkins:** I think the reference to point of origin in the bill would be the power that would be relied on for the 75-mile radius.

1210

**Mrs Pupatello:** Would that mean there would be farmers from Quebec who would be allowed to continue to sell at the market but that produce, for example, in southwestern Ontario then would be prohibited and Quebec produce would be allowed?

**Mr Bisson:** If you allowed that, then without the amendment.

**Mrs Pupatello:** There is Quebec produce a mile away from the market that then would be within the 75-mile radius.

**Ms Hopkins:** I believe that if the words "point of origin" are taken out, the city probably doesn't have the authority to stipulate where the products come from.

**Mrs Pupatello:** If it's passed—it hasn't been moved or whatever—with the 75-mile radius, then you would take other provinces' produce for sale but not from southwestern Ontario, for example, because it's so far outside.

**Ms Hopkins:** My understanding would be that you can't establish the 75-mile radius once those words are taken out of the statute.

**Mr Pettit:** By the way, the first group from the city that did a presentation, we didn't get to question them.

**The Chair:** They're coming back.

**Mr Pettit:** They are coming back? All right, because I would like to pose the same question to you that I was originally going to pose to them.

**Mr Chorney:** Should we ask them to come up here?

**Mr Pettit:** No, they're coming back, but I'd like to ask you this too. We've gone through all these various technicalities etc, producer-based and on and on it goes, but it seems to me we still haven't had the question as to what the motive is. This market has been running for 160 years, it would appear to me from all indications effectively and profitably, and for the most part everyone was happy. So why, after all this time, does the city or the region feel it needs these special powers to run this market?

**Mr Chorney:** I think increasingly farmers—

**Mr Pettit:** What is the problem that brought this to fruition in the first place?

**Mr Chorney:** The court case.

**Mr Pettit:** I realize there was a court case which the judge ruled against the city, but what started the whole process in the first place?

**Mr Chorney:** I think the number of true farmers was decreasing at an alarming rate and that it was becoming more of a reseller-, huckster-, pedlar-based marketplace.

**Mr Pettit:** Who was unhappy about that? Who brought this forward to the city? Who got the whole thing going in the first place to get the bylaw started?

**Mr Chorney:** I know the first people who would be unhappy with that would be discriminant shoppers, and most of them are. When we help organize farmers' markets in small—



**Mr Pettit:** I have a big problem with that. I find that somewhat insulting to the consumer. Speaking for myself and some of the people I've spoken with, I don't know anyone who goes to a farmers' market—we do have one in Hamilton—who actually asks sellers if they grew it themselves. They're there to determine what they want, whether it's a good product, what the cost is. I think Mr Hastings brought that up on the caveat emptor, and I think that's a very valid point that really needs to be answered.

**The Chair:** Is there a question, Mr Pettit?

**Mr Pettit:** That's it.

**The Chair:** Perhaps one final question for Mr Chorney.

**Mr Lalonde:** You've just mentioned that at the present time we're facing a decrease at an alarming rate, but I'm looking at the sales at the market, and they are \$45 million, from the stand holders. What was it four or five years ago?

**Mr Chorney:** I'm talking about a decreasing number of farmers at market, not the sales volume.

**Mr Lalonde:** Very rarely have I seen an empty stand at the market, though.

**The Chair:** Thank you, Mr Chorney. With our agenda, I would ask Mr Rochon to come to the witness table.

**Mr Gerard Rochon:** The need for special legislation for the By Ward and Parkdale markets. Members of the committee, thank you for allowing us time to express the views of agricultural producers regarding this special legislation. My name is Gerard Rochon. As president of the By Ward Market Growers' Alliance, I represent agricultural producers with a combined production of 1,500 acres and 250,000 square feet of greenhouses. We sell all sorts of commodities—produce, meat, maple products, horticultural products—at Ottawa markets. Many of the families that form our group have farmed for generations and have sold at the markets for generations.

Why do we need this special legislation? Justice Cosgrove, in squashing bylaw 55-95, ruled that the Municipal Act allowed the city to establish, operate and regulate public markets. This is not enough for the markets to continue operating successfully. All the regulations that ensured the success of the markets have been declared illegal by a court decision. Everyone in this room is stuck with this interim bylaw. This may be acceptable to some because it allows anyone to sell anything and everything, but this is not good for the long-term viability of the market.

With special legislation, the city could adopt a bylaw which would provide a good environment for us to do business. We need stability for our business. We have to deal with such things as weather on a day-to-day basis and consumer trends which change regularly, to name two. But our plans are long-term when investing in land, equipment, buildings, machinery, greenhouses and training. We need rights for renewal from year to year for our stands, something we have always had. We invest a great deal of time and money in our crops.

Concerning our large startup costs involved, we need to ensure continuity for our farms. Previous bylaws allowed us to transfer our market stands to our spouse, sons or daughters in the event of death or retirement.

This provided for continuation of the family farm. It made good business sense.

We need flexibility in rental contracts we sign with the city. Right now we only have daily and monthly contracts. We have lost term contracts which we had before. We have to wait in line for extra stands we need. What happens when we have a good crop growing but we can't get a decent stand to sell it when it's ready to harvest?

I'm a farmer and I represent farmers who sell at the markets. I am proud of this and I don't mind being identified as a farmer. In fact, it's good for my business. Without special legislation, the city cannot identify me as a farmer. I am a market vendor, just like everyone else. The same goes for artists and craftsmen who sell their art at the market and for all other categories of vendors. How can the consumer identify farmers at the farmers' market without special legislation? It makes no sense.

All these things are essential to ensure that the markets are a good place to carry on business. All these things evolve from good common sense, as the Conservatives like to say, and became regulations in previous markets' bylaws. We need special legislation to bring them back.

On the product restrictions, the city of Ottawa introduced a bylaw in 1995 that gave an edge to the farmers. All the bylaw said was when a crop was available by local growers, for example sweet corn, only local growers could sell their production. No supplementation of sweet corn was allowed for that specific period of time. Vendors were permitted to sell sweet corn before the local crop or after. This was done to promote local production and give producers fair competition.

In the real estate business the buzzword is "location, location, location." In the farmers' market business the buzzword is "local, local, local." This is what customers expect to find at the markets: local, fresh produce. This is why they shop at the markets instead of the supermarkets.

The produce-based concept—the presence of farmers—is what gives the markets their edge in the competitive business of food retail. We, the producers, want our own niche in the industry. How else can we compete against free parking, easy access and convenient hours? Customers will shop at the markets to buy exactly what they expect from us farmers: local, fresh produce.

This encouragement of local farmers is a good boost for the local economy. We are entrepreneurs working for our local economy. We grow our crops, spending on seed, trays, tractors, equipment. We do greenhouse production, spending on heating oil, electricity, fertilizer. We plan deadlines for transplanting, risking Mother Nature. We plan our product mix: vegetables, fruits, flowers etc or a mixture of these. We plan diversification to accommodate consumer needs and we plan expansion or specialization. We are employers.

#### 1220

Estimated sales of the market are \$45 million. Why should half of this money leave the area to support farmers elsewhere? Can we blame the city for trying to get back some of that money for its own local economy?

All these aspects were identified by the council of the city of Ottawa when it adopted its plan to revitalize the markets. The drop in total attendance of customers at the



markets, the loss of frequent shoppers, the gradual loss of farmers attending the markets—that is why the city took measures to re-establish its markets by encouraging farmers. These same farmers have always had the support from the people of the Ottawa region. There is room for everyone at the markets. We need to create incentives for local farmers in the area. This is why the By Ward Market Growers' Alliance supports the city of Ottawa's request for special legislation. We encourage all growers to join our team.

**The Chair:** Thank you. Does the committee have any questions for Mr Rochon?

**Mr Hastings:** How many farmers in your alliance?

**Mr Rochon:** We have 30 farmers.

**Mr Hastings:** What's the difference between your group and the other group that's here? They call themselves farmers too.

**Mr Rochon:** We grow the majority of the produce we sell ourselves.

**Mr Hastings:** Whereas they do not?

**Mr Rochon:** I don't wish to get into this catch-22 situation.

**Mr Hastings:** Fair enough, all right. I'd like to go to the practical case. I'm a consumer. I'm at your booth. I buy some tomatoes or onions that day. I've never met you before. How are you going to prove to me that you're a local producer, through a bureaucratic approach? Are you going to have on each bag or on each tomato or on the permit that you are the local producer, you grew the food and not somebody else? How are you going to be able to tell me that unless I ask? I'm taking it the other way this time.

**Mr Rochon:** Let me put it this way. When we grow something, we're proud of it, and when we sell it, we're proud to put on the sign, "This is from my farm."

**Mr Hastings:** Right, agreed.

**Mr Rochon:** The case in point was put a while ago, why can't we sell Ontario produce and this and that? I think it was your question. When I take this tomato and I take it out of the container and I put it out in the stall, I want somebody to tell me where that tomato came from after it's out of the container. A tomato is a tomato, and it will be damned hard for someone to come along and tell me, "This is from Leamington," "This is from Montreal," or "This is a US tomato," or "This is from your farm." So we need special legislation that says when local tomatoes are in season and there's a sufficient amount to supply the markets, only the farmers who grow them can sell them.

**Mr Hastings:** Are you telling me then that the prime motive for me buying that tomato will be location, not quality, not price, not texture?

**Mr Rochon:** I can ask the committee, why do you go to a farmers' market if not to buy from a farmer? In the last 10 years, the supermarkets have done an excellent job. I commend the Loblaws and the Dominions on the freshness and the quality of their product. We have major competition in these areas, and if we cannot prove to our customers that it's from our farm, we have big problems. Why go to a farmers' market when I can buy the same thing at a supermarket?

**Mr Hastings:** I can think of other reasons: friendly interaction etc. Thank you very much.

**Mr Pettit:** Just a quick one. I'd like to define "producer" here. Is the producer defined as the legal owner of the farm?

**Mr Rochon:** No.

**Mr Pettit:** How is it defined then, in your view?

**Mr Rochon:** The producer is the person who grows the product. I can own 1,000 acres—

**Mr Pettit:** Who grows it then? The Ottawa market I believe is six, if not seven, days a week.

**Mr Rochon:** It's seven days a week, yes.

**Mr Pettit:** If you have to be there selling it, then who's growing it?

**Mr Rochon:** Who's growing it? I'm growing it, and my wife. We are family-operated farms.

**Mr Pettit:** You're at the market selling it.

**Mr Rochon:** My wife is, yes.

**Mr Pettit:** Your wife is?

**Mr Rochon:** I'm on the farm producing it and she's selling it.

**Mr Pettit:** Do you see what I'm saying though? There's a little bit of a technicality there as to exactly how you define the producer.

**Mr Rochon:** Exactly. I could own 1,000 acres and grow one acre of vegetables, and I could still call myself a farmer. I could own five acres and double-crop and do 10 acres—

**Mr Pettit:** So you're planting it, harvesting it and selling it all by yourself?

**Mr Rochon:** Yes, we are.

**Mrs Papatello:** This was somewhat addressed, I guess. Mr Rochon, you're coming to a provincial level of parliamentarians who are responsible for Ontario farmers and produce that we want to promote, Ontario produce, and the very intent of the bill will prohibit Ontario producers and farmers in some respects. Our intent as legislators has to be to look after Ontario farmers, so when we see things that come before us that would somehow prohibit or limit Ontario farmers, wherever they might come from, we would have a problem with that. How do you respond to that?

**Mr Rochon:** You say you want to protect Ontario farmers, and you said a while ago that we were one mile from the Quebec border. Where do you think the glut of vegetables comes from when they buy it? It's not from Leamington; it's from Montreal.

**Mrs Papatello:** Actually, depending on which submission I read, it comes from a number of places, because everyone has their own individual case. But we did speak to a number of farmers who—

**Mr Rochon:** Yes, but what we're saying is, when it's locally grown and in season and there are sufficient amounts to supply the market, not one person growing it, let the local producers sell it. Strawberries are in season three weeks to a month. You can buy and sell strawberries two to three months before the season and you can buy and sell strawberries three to four months after the season, but for those three months let the local producers sell their production. That's Ontario produce.

**Mrs Papatello:** There was a submission made to us that said in the last couple of years, or after bylaw 55-95, local farmers were financially hurt. Some just broke even and the majority lost money. That is someone's opinion



in terms of what happened, that 50% of the stall operators closed. Do you think that's good for the farmers' market?

**Mr Rochon:** I'd like to see where the 50% of the operators closed, because I've only heard of one person closing his stall, because he was retiring.

**Mrs Papatello:** Would you agree that the majority lost money or just broke even, or did the majority in the market do well in the last couple of years after bylaw 55-95? I've got a note here telling me the following changes occurred after the bylaw was passed: 50% of the stall operators closed; local farmers were financially hurt; some just broke even and the majority lost money. Would you agree with that?

**Mr Rochon:** To a certain extent, yes, I would, because when you grow on one or two acres and you are intent on not following a bylaw, you will not go out and invest; you will not go out and plan a product mix; you will not go out and plan diversification to accommodate your consumer needs. We have big homework ahead of us before we start a season.

**Mrs Papatello:** So if you agree with what has happened as is indicated here, then by supporting this legislation, you'd be getting that back.

**Mr Rochon:** We have had 40 new growers come to the By Ward Market and Parkdale. They have applied to come and sell in the markets. We have had 40 new growers come and apply to sell in the markets. Instead of going from 107 vendors 20 years ago to the 60 that we are now, we had 40 new people come and apply to sell in the markets. I think, instead of the market shrinking, the city finally has done something to try and expand the markets, because we have gone from a beautiful, vibrant market to one strip, one little street.

**Mrs Papatello:** Mr Rochon, it's a little bit disjointed for me, because you've agreed with this statement that local farmers were financially hurt, some just broke even and the majority lost money after bylaw 55-95. That bylaw was struck down by the courts, and this legislation is intended to put it back in, which will put you back in the situation where local farmers were financially hurt, some broke even and the majority lost money. Why are you supporting that?

**Mr Rochon:** I'm supporting it because it would help the incentive for the farmer to farm again. Instead of saying, "I'll just put in one acre and I can supplement 50 acres," now they have to grow 30 acres and supplement maybe with 10 acres.

1230

**Mrs Boyd:** Let's just pursue that a little bit, because that is the whole purpose of this in terms of economic development. The purpose of the bylaw, I gather, was to encourage that diversification on local farms by requiring it to be producer sold. Is that correct?

**Mr Rochon:** That's correct, yes.

**Mrs Boyd:** That's my understanding, that, yes, people who were not doing that, who were relying on being able to purchase large amounts under the bylaw found themselves in difficulty. And those are the people who found themselves in difficulty.

What the city is saying to use is that they're trying to encourage by their bylaw, and obviously by Pt42, the ability of those local farms, the requirement, really, for

those local farms to diversify so they're producing locally what is sold in the market, and obviously some people don't like that?

**Mr Rochon:** That's right.

**Mrs Boyd:** And some people do?

**Mr Rochon:** Yes.

**Mrs Boyd:** In terms of Mr Pettit's question, the act defines what a Niagara food producer is. It says, "...means a person who is actively and directly engaged in the production of agrifood products to be sold or offered for sale on the markets." So they have defined it within the act as being a connection between the direct production and the selling to the extent possible.

My understanding of all this is that when, for example, cauliflower is not in season in the Ottawa area, anyone who has a stand would be able to purchase cauliflower and sell it?

**Mr Rochon:** Exactly.

**Mrs Boyd:** But when cauliflower is in season in the Ottawa area, only what is raised locally could be sold? Is that correct?

**Mr Rochon:** That's correct. But in sufficient amount, enough to be able to supply the market, not just one grower coming in and saying, "I have cauliflower today; I don't want to see any more cauliflower on the market." No. Can you supply the market?

**Mrs Boyd:** Just help me with that. That doesn't mean that one producer would be the only person who could sell cauliflower. It would mean that each producer would have to be able to have a sufficient amount of cauliflower to satisfy the market on that particular day.

**Mr Rochon:** Exactly, that's right.

**Mrs Boyd:** How do you make that determination? How do you know?

**Mr Rochon:** You have applications at the beginning of the spring; you have all your cauliflower producers and you call them up, "When is your production ready?"

**Mrs Boyd:** You know when the planning happens, you know how many acres have been seeded and you know, generally speaking, probably within the limits of crop insurance, what you can expect to be the yield, given the amount that's been planted.

**Mr Rochon:** And as 55-95 said, they wanted a seven-day leeway period. You had to say, "Next week I will have cauliflower ready," and they would contact other growers to see if their crops were ready also.

**Mrs Boyd:** Just one last question: In your history with the market and so on, up until Mr Justice Cosgrove struck down the bylaw on the ground that the city didn't have the right to put that bylaw into place, who has regulated the markets?

**Mr Rochon:** As of last October 6?

**Mrs Boyd:** No, before October 6 of last year, what entity regulated the By Ward and the Parkdale Markets? Who did that?

**Mr Rochon:** It was the city of Ottawa through their markets office.

**Mrs Boyd:** Since the bylaw was struck down, who has been regulating the markets?

**Mr Rochon:** The same people, with an interim bylaw, which can be struck down at any time. I can bring this new interim bylaw to judgement, to court and, with Mr



Cosgrove's decision, say it is discriminatory and tomorrow morning we all have to stand in line for stalls day by day. You can't even get monthly contracts.

**Mrs Boyd:** So your concern is that the vacuum that's created by the judgement and by the lack of ability of the city to set this regulation causes uncertainty for you in carrying out your business.

**Mr Rochon:** Great uncertainty.

**Mr O'Toole:** Thank you very much. I appreciate the very thorough dialogue, because this is getting down to the complex nature of this, which should be decided, I think, by the city of Ottawa. It has been there for 150 years. I think they're all getting the signal that they have to work this thing out.

Two or three very specific questions: Are you a member of a marketing board?

**Mr Rochon:** Yes, the asparagus marketing board.

**Mr O'Toole:** That regulates supply and price and stuff like that. Okay, that's the first one.

You support the marketing boards, whether it's tomatoes or eggs or whatever it is.

**Mr Rochon:** Yes.

**Mr O'Toole:** That's good, I suppose. Second, do you sell in any other market?

**Mr Rochon:** No, I sell only in the By Ward Market.

**Mr O'Toole:** How about in Hull or Quebec?

**Mr Rochon:** I do not sell in Hull or—I can't even go to sell at the Montreal markets.

**Mr O'Toole:** What do you do with your surplus? The cost of production is a complex thing. You've described very well the whole process of business planning, and if you were to get into kind of a greenhouse operation, over the period of time you may expand your production on one side to reduce your unit cost. What would you do with the surplus if you're locked into this kind of fixed, regulated—do you understand what I'm saying?

**Mr Rochon:** Yes, I understand what you're saying.

**Mr O'Toole:** Are you going to buy quota at the market? Should we buy futures at the market, the quota market? Do you know how futures work?

**Mr Rochon:** Yes, I do.

**Mr O'Toole:** Okay. Futures also determine these unknown things about supply, where demand will be and timing. At certain times the price—

**Mr Rochon:** I think I know what you're getting at here.

**Mr O'Toole:** So you're for supply-side and demand-side control.

**Mr Rochon:** Take for example, cauliflower. We have a bad year in Ottawa; we have no cauliflower.

**Mr O'Toole:** So nobody in Ottawa gets cauliflower.

**Mr Rochon:** Nobody in Ottawa gets cauliflower. It's never declared in season by the city.

**Mr O'Toole:** So what if I'm the only one who has it.

**Mr Rochon:** Do you have sufficient amounts to supply the whole market?

**Mr O'Toole:** Who's to say what the demand is? Maybe people are just turned off brussels sprouts, or whatever it is.

**Mr Rochon:** But what I'm saying is that if it's not declared in season, you could bring it in from Leamington, you could bring it in from Montreal; you just call the

wholesaler and say, "I need a transport-load of cauliflower"—because I'm allowed to supplement with it—and it's there within three hours.

**Mr O'Toole:** I'm not trying to trivialize it. I understand your costs are exposed: You've got the greenhouse and the gas that's going into it, all the fixed cost stuff.

Do you sell at the side of the road? I mean it's so convenient. Your children are home from school. You've got these extra tomatoes.

**Mr Rochon:** No, I don't.

**Mr O'Toole:** Do you think anybody should?

**Mr Rochon:** Yes, I do. I'm not against anybody opening up another market in the Ottawa area at all. I'm for that. It's like opening up a second store.

**Mr O'Toole:** One last point.

**The Chair:** Is it a point or a question?

**Mr O'Toole:** It's a question really. You're suggesting we support this private member's bill because it gives Ottawa back some kind of power, which it has anyway, in my view; it's just a matter of working it out with the partners.

The other thing is, in the proposed amendment it's going to strike out the point of origin, which really lets the person from Leamington come right back in.

**Mr Rochon:** Let me tell you something: I don't mind competing against another grower if he's from Leamington or Montreal, but let that grower come to the market who has the same costs, the same hardships—weather—and come and sell his produce on the market.

**Mr O'Toole:** I think they tried that in Russia; it didn't work too well.

**Mr Rochon:** I'm for fair competition. It comes down to the basic philosophy. It's a farmers' market. Do we want farmers on the market or do we just want it to be a retail produce outlet?

**Mr O'Toole:** One last comment: The whole concept that was provided here previously, supplying the producer and supporting that producer, I think that gives you the whole synergy that happens in a market. I completely concur with that. I've been at the By Ward Market when my daughter went to Carleton, and there used to be fighting about, "This wasn't locally grown."

That goes on and I don't think it does good PR for the vendors. I see the dilemma, but I don't think Toronto should be making your decisions.

**Mr Rochon:** No, I don't. I think Ottawa should be making decisions.

**Mr O'Toole:** I hope you're all going back well informed on the various arguments. We're well informed.

**Mr Rochon:** I sure hope.

**Mr O'Toole:** Now we are.

**The Chair:** The next presenter, interested party, on the agenda is Mr Sutter.

**Mr Labelle:** I believe Mr Sutter has stepped aside.

**The Chair:** The next interested party on our agenda is Mr Waserman.

1240

**Mr Philip Waserman:** My name is Phil Waserman. I'm the chairman of the By Ward Market BIA—an elected chairman. I have been since its inception in 1993. I'm the owner of two restaurants in the By Ward Market and I am the immediate past chairman of the Ontario



Restaurant Association where I served an unprecedented three one-year terms.

I'm here not just for myself. We have carrying letters of support from the Ottawa Tourism and Convention Authority and several community groups, which I believe have been distributed to you. Our members pay approximately \$5.5 million a year in realty and business tax to the city of Ottawa.

For the past several months, the By Ward Market BIA has been developing a strategic plan for our organization. The market stalls are located within our boundaries, but they're not actually members of our BIA and they don't pay dues. As part of our process, we hired a market research firm and conducted a survey of 605 residents, which is a fairly large group. The research findings support the producer-based concept by our customers as outlined in the city of Ottawa's 1992 strategic plan.

Essentially, the study revealed a direct correlation between visitors' perceptions of market vendors and their visiting habits. Put plainly, if a visitor believes that a vendor is not a bona fide grower, they are less likely to visit By Ward Market. Since 60% of visitors shop for food in the By Ward Market according to our study, this has serious implications on the survival of not only the farmers' market but for the entire commercial area if the city's application for special legislation is not approved.

Moreover, the findings suggest that the recent decline in business last summer of about 20% or 30% can be attributed to the public's loss of confidence in the farmers' market. That number has gone down from 1992—the city did a study—when 43% of our customers believed that everything was grown by the farmers in the By Ward Market. In 1995, 5% of the population, or 4%, believed that's the case now. So the myth has been exploded.

These figures reveal a significant reality that impacts all of our communities. If By Ward is to maintain its strength and continue its legacy, it must remain a real farmers' market. This is more prominent than ever since the general public is far more educated and aware of the proportion of vendors who currently buy and sell produce as opposed to those who actually grow their own.

The public has indicated that it wants variety and freshness, to purchase their fruits and vegetables directly from those who grow them, to know what is in the product and how it was grown. If a genuine farmers' market is not supported, this 160-year tradition will cease to exist. Our continued quality of life will be greatly affected if By Ward reverts to an outdoor retail store, or worse, a flea market. More importantly, since this is not the trend supported by our customers, By Ward's ultimate survival would be in question.

The opposition to our support for the local farmer is BAM, Business Action for Markets, which represents—it's now a disclosed number of vendors; we've never seen that list before and we're quite pleased to see it shown again today—vendors and fruit and vegetable wholesalers in the market, the majority of whom supplement their product with wholesale produce or they deal exclusively with wholesale produce.

I'm looking to this committee for its support in the application for special legislation. Not only does the

future of By Ward depend on this legislation, but our community as a whole could feel the effects if the farmers' market fails to restore confidence in its authenticity and maintain its viability.

I'd also like to remind you that city council on several occasions, by a vote of nine to two, has supported this, and I believe they need the legislation to carry out their duties in this regard. I remember Norm Sterling, as you heard, gave his unqualified support as well.

**Mrs Papatello:** Mr Wasserman, were you aware of the implications of Bill 26 and what the city of Ottawa could do?

**Mr Wasserman:** No, I was not.

**Mr Lalonde:** Mr Wasserman, you have issued a communiqué, a press release—I don't know what date, because I don't have the date on it—that we have in our package here. You refer to the coalition, the founding organization that is supporting the proposed bill. Have those groups received a copy of this bill?

**Mr Wasserman:** I'm not aware if they have or not.

**Mr Lalonde:** Last night I got on the phone and called many of them. Of all the people I spoke to, none has seen the bill, and especially one person said, "If it is going to reduce traffic at the market, we are not going to support it." What really struck me is the fact that they said they'd never seen the proposed bill. How can you say you have the support of this group when those people haven't received or seen the bill?

**Mr Wasserman:** They supported the strategic plan. This is not a bylaw you're approving today; this is enabling legislation. The bylaw would be developed in the city with full consultation from dealers, farmers, the business community and members of our coalition. All the information in the bylaw would be given at that time. This is not a bylaw.

**Mr Lalonde:** The answer I got from people is, "If it is going to take away or cancel some of the farmers we have in there at the present time, we are not in support of it."

**Mr Wasserman:** I don't believe the business community would do anything that would affect their livelihood.

**Mr E.J. Douglas Rollins (Quinte):** I've sat here all day and listened to a discussion of things that I as a legislator don't feel we should be making a decision on. The city of Ottawa has run that market for 160 years, you tell us. I feel there are farmers who want to produce their product there; there are buyers who want to buy corn there. It doesn't matter whether it's grown within five miles or whether it's grown in Leamington. I think this is something you people have to decide for yourselves, to be able to get together as people cooperatively and make the decision to keep that viable operation of a market in Ottawa. Your business people have told us that it does generate a lot of business. Your farmers have told us that they've gotten rid of a lot of product. It's a win-win situation. So for goodness' sake, can we not follow from the very first speaker who said here some two and a half hours ago, "Can we not get together and make this thing work?"

I don't believe that as a legislator I should sit here and tell you people out there, "You've got to do this and you've got to do that." All I should have to do is go out



there and work, and that's the kind of cooperation I think this committee could see. I can support this bill because it does put the onus back on Ottawa, which does own the property where it is, but the farmers have got to cooperate too and the people from Ottawa have got to cooperate with the farmers to make sure they're viable. We don't want to hurt anybody and I don't think that as legislators we want to sit here and hurt anybody. Those are my wishes. I would like to think I could support our colleague Mr Morin and make sure that comes to pass.

**Mr Wasserman:** I totally agree with you. We welcome the participation of BAM if they're prepared to do it. So far they've not been.

**Mr Rollins:** I'm sure, from hearing from these people, that there's got to be some cooperation here. We've got to have it.

**Mrs Boyd:** There were certainly some allegations, Mr Wasserman, that you don't represent a lot of the people who are part of your organization, and that concerns me. There was an allegation that people didn't understand what was going on. I think that's what Mr Lalonde was trying to get at. That concerns me and I'm sure it concerns you, since you are the elected chair of a group.

**Mr Wasserman:** Yes, absolutely, and as recently as March 12 we sent a full information sheet to all our members. We held a public meeting on March 20 and we explained exactly what was going on here today and the objectives of it. We had some people, mostly people who had inquiries. A couple of the BAM spokespeople came to disrupt the meeting. We are constantly consulting. Back in the spring of 1994, when the city was drafting the last bylaw, we sent out information to all our members. We communicate with our members probably no less than six or eight times a year, and if you ask the councillor for our area, with our board even more frequently. We are extremely consultative. I have never seen this petition before. I have, however, seen a previous petition which that particular gentleman circulated regarding an illegal sign he had put up. That one purported to contain 150 names, and in fact there was the hand of perhaps three or four people who wrote it. I haven't seen this one, so I can't—

**Mrs Boyd:** I'm certainly not going to touch that allegation with a 10-foot pole. I gather you are here to say that you agree with those members here who have said that Ottawa ought to make this decision.

**Mr Wasserman:** Yes, we're supporting enabling legislation.

**Mrs Boyd:** They're here because of a court decision that told them that even though they'd done this for 160 years, they didn't have the right to do it. So they're here to get the enabling legislation to enable them to do what they as a council have agreed, by majority, I gather a number of times, to do. Is that correct?

**Mr Wasserman:** Yes, we're here to support the enabling legislation. We're not here to work on the details of the bylaw.

1250

**The Chair:** This completes the presentations on our agenda. I would now ask the applicant, the city of Ottawa, if there are any final comments. I'll ask your names again for the purposes of Hansard.

**Mr Bellomo:** Jerry Bellomo. I'm just going to address one issue, the issue that was raised by Mr Bisson relating to the ramifications of Bill 26, which admittedly has been enacted since bylaw 55-95 was struck down. The question is essentially, "Doesn't Bill 26 give you everything you need?" The answer to that, quite clearly in my opinion, is no, it does not. The Municipal Act prior to Bill 26 always contained a provision that allowed us to regulate, license and manage markets. Under that general provision in the Municipal Act, we passed bylaw 55-95, and it was struck down by the courts. In my opinion, if we again attempted to enact a bylaw that attempts to do what we want to do, which essentially is to distinguish between producers and non-producers, that would be struck down for the same reason that bylaw 55-95 was struck down, that we don't have the specific enabling legislation to do that and to do many of the other things we want to do that are set out in the legislation.

Bill 26 no doubt empowers municipalities, but in this specific situation dealing with markets and dealing with an attempt by the municipality, for example, to distinguish between producers and non-producers, it doesn't, unfortunately, give us that power. If we did pass a new bylaw simply under Bill 26, there's no doubt in my mind that it would be challenged again and we would have to come back before you one year from today, and that's what we're trying to avoid. We're trying to avoid the relitigation of this matter.

**Mrs Papatello:** I know we spoke prior to today about the kinds of amendments you would have been prepared to deal with. If we could change the bill so that the farmers have a sense that their produce is not being affected and that they would be allowed to bring in produce from other jurisdictions, at least in Ontario or what is going to be feasible for them, but the balance of the bill addresses those kinds of controls that you need for the overall market management but didn't affect the producers, would you be prepared to forward that?

**Mr Émard-Chabot:** Stéphane Émard-Chabot, city councillor for the By Ward Market area. The preamble states clearly what we're trying to do, and that is encourage a producer-based market. One of the points that was raised, an opinion that was given, was if this enabling legislation is passed, will people be kicked off? Will we lose people from the market? That's simply not true. The bylaw will have to be discussed, and it is a clean slate. Some people fear the return of the old 55-95. I stated clearly at the beginning, to make it very clear on the record, that we're not bringing back that bylaw with a fresh coat of paint. We are working with something which I hope will be different.

**Mrs Papatello:** Is it different to the extent that farmers are protected in terms of how they choose to sell produce?

**Mr Émard-Chabot:** This is not a two-sided issue, and I guess it's a point I really want to stress to all the committee members. You do have farmers who only sell what they grow; you have farmers who supplement to some degree; you have people who are pure dealer operations, who do nothing but buy and sell produce, not necessarily from Ontario or Canada, for that matter. You also have stores that sell fruit and vegetables that pay



literally thousands of dollars in taxes a year to the city of Ottawa, the region and the school boards. They have to be taken into account. If you're asking me, am I willing to open the floodgates and let people on the street sell anything they want because they also happen to be farmers, the answer is no. I have store owners who scream at me because they have people competing with them. We've lost Zunders, the biggest food store in the area, because they were competing with people on the street who pay a couple of thousand dollars a year. Their business had gone down and they couldn't sell it, is the bottom line on Zunders.

There are more than just two sides. There are people in the streets who sell crafts that they make. I also have stores, because this is a tourist area, that sell Canadiana, crafts that are made in other places in Canada. They have issues with the people on the street because again, the people on the street are competition for them. They don't pay taxes; they pay very low fees for the space they used. That's why we regulate the people on the street by saying, "If you want to sell things, you make them yourselves so the stores can sell other things."

There are so many actors to balance, and I would really caution—maybe I'm straying a bit from your question. We've been going through this for two years. This is not something that just happened yesterday. We are here asking you to give us the powers we thought we had for the last 160 years. Nothing revolutionary; we've been exercising these powers for this time.

**Mrs Pupatello:** Which gentleman is the city solicitor? Mr Bellomo?

**Mr Bellomo:** Yes.

**Mrs Pupatello:** I thought it was you. Were you making your commentary on the impact of Bill 26 because you've just thought about it in the last little bit today, or are you aware of the legislation? Only then I will tell you that the city of Windsor has used its powers, through Bill 26, to stop out-of-town tow-truck companies from coming into the city of Windsor and operating a business, and they've used various parts of the bill to be very restrictive in terms of licensing and fees etc. I'm interested in your commentary on what you sense is the Bill 26 impact, because I don't know that it's been around long enough that we know.

**Mr Bellomo:** First of all, we certainly looked at Bill 26 to see if that gave us the powers we needed to enact the type of legislation that we feel is required to ensure a producer-based market and we're of the opinion that it does not. I'm not aware of the Windsor bylaw that you mentioned. Just as a gratuitous comment, that hasn't been challenged in the courts yet so we don't know whether that will stand up. What we're trying to do, as I indicated, is to avoid a challenge in the court by making sure we have the clear authority to do what we want to do.

**Mrs Boyd:** My question is to Mr Bellomo. You are currently in appeal of Mr Justice Cosgrove's finding?

**Mr Bellomo:** Yes. We have what we would consider a protective appeal before the courts at the moment.

**Mrs Boyd:** Have you a date when that will be heard?

**Mr Bellomo:** No. As you many know, the Court of Appeal has a very lengthy waiting list. It will probably be another two to three years before we get before the Court of Appeal.

**Mrs Boyd:** So in order to protect the authority of the city to regulate within the market, you feel you need this, given that finding is there by Mr Justice Cosgrove.

**Mr Bellomo:** Absolutely.

**Mrs Boyd:** You are not certain that on appeal, the changes through Bill 26 would make any difference anyway?

**Mr Bellomo:** Right.

**Mr O'Toole:** It's been a very exhaustive kind of examination. I'm going to refer back to Mr Chorney's remark, "In Ontario, there are 60 or 70 of these new producer-based markets," so your phenomenon is not particularly unique. With that statement I suspect what I see here—I have a significant problem with some of the language in the private member's bill, mainly to do with this restrictive limitation-type, prescriptive nature. Do you understand my concerns as a provincial writ?

How I'm tying it to Mr Chorney's—considerations in Bill 26 as well as the precedent set here may set a precedent for all 60 or 70 producer-based marketplaces in Ontario. Do you see that danger? It would use as a protocol to say that now in Sarnia, wherever—I'm not happy with the particular rule, some of the prescriptive nature in this private member's bill. It's contrary to every Conservative principle I can think of. I ask you the question: Do you think after the full debate that reasonable people can work out reasonable solutions in Ottawa where the reasonable solution should be made?

I'm fully, completely informed now of the danger of the large multinational whatever that may show up in your market and take over control, selling only California fruit or whatever. I heard one farmer speak of his growing tomatoes and wanting the exclusive right to sell only tomatoes or cauliflower. So do you understand our problem?

**Mr Bellomo:** I certainly understand the problem. But I guess Ottawa has a problem as well, and we need your help to solve that problem. Unfortunately, we're dealing with a decision of the Ontario court that in effect said that, "Ottawa, you need fairly prescriptive legislation to do what you want to do." The general legislation that was in the Municipal Act previously, and even the legislation now under Bill 26, does not allow us to set in place the regulations that we feel are required to ensure that it remains a farmers' market. Unfortunately, that goal requires some prescriptive legislation.

1300

**Mr O'Toole:** That is the danger, and I don't think we've worked it out here. I appreciate the length of time we're spending on this, but that's exactly it. The proposed amendments rethink the prescriptive nature as it applies to territory or distance or origin of the produce, and if we amend that, technically that's what you're dealing with. Do you understand? If you take away the boundary issue, "I'm from Niagara Falls and I sell grapes and I'm going to be there Saturday," if I had to be a producer to be there—or does that mean any producer who's there could not sell a product that could not be grown locally? I believe you're fraught with challenges under the current 42; it's got so many ringers in it, it's just unbelievable.



If you look at the whole section on page 2, in fact limit the number of stands, it's all limited: limit, limit, limit, restrict, restrict, restrict. I think my last statement appreciated, I hope—

**The Chair:** Statement or question, Mr O'Toole?

**Mr O'Toole:** It's a statement to say that I hope Ottawa council can work it out. It sounds like there's a very competent local representative who now has a full understanding. I also throw it out to the BAM and the other groups: listen or get legislated.

**Ms Joan Wong:** What we need is legislation.

**Mr O'Toole:** You can do it. It's my opinion, you can do it.

**Mr Émard-Chabot:** If I could reply briefly. Without the enabling legislation, we used to, for example, not allow corporations to have stands. We can't do that any more. We can't create categories. We can't discriminate. That's a problem. That means the stores that are right now in the market could expand their businesses outdoors and put a lot of these people out of business. That's something we haven't allowed for the last 40 or 50 years. They can have small boxes along the façade of their store, but they cannot go into the street and have stalls. We can't prevent them from doing that. That would be a big change in what the market is all about and what it does.

To limit the number of stands is to prevent somebody from eventually acquiring 20 of them, which again would be unfair. The market is there because it's chaotic, because there's a variety of people and faces and stalls, and the consumer has a choice. We're not there to operate an outdoor Loblaws.

So without the legislation—and I realize your apprehensions about a lot of these points—the way they will be used I think will make sense. The removal of the point of origin, which removes in effect the 75-mile radius that was in the old bylaw, is something which was of concern to the government as far as restricting trade. It's something we don't exactly know what we're going to do with at this point. But we are prepared to live with it, because the province had very legitimate concerns about the city of Ottawa creating trade barriers within the province. So we agreed, remove that, fine.

**Mr O'Toole:** There is such loose language: "any other criteria as may be seen fit." That's like saying, "All of the above plus some we haven't thought of." I'm not comfortable with that kind of law. It's draconian.

**Mr Bisson:** Let me ask you the question I asked previously. I just want to make this point clear. Is it the intent of the city of Ottawa to limit the ability for independent producers to sell their goods within that market or to operate independent businesses in favour of a larger conglomerate or a larger business entity?

**Mr Émard-Chabot:** Absolutely not.

**Mr Bisson:** Will these people be put at risk of losing their ability to operate within the market?

**Mr Émard-Chabot:** That is not our intention.

**Mr Bisson:** Is it your intention, in the longer period of time through attrition, to have these people go out and have the larger business entities come in?

**Mr Émard-Chabot:** The larger ones, no; producers, yes. Last summer—and Mr Rochon was heckled when he

raised the statistic, but it is true—we received 40 new applications for By Ward from growers, something which hadn't been seen in a decade in Ottawa. Of these 40, only four were large farms, a couple hundred acres. All the others were small local farmers, a lot of them were monoculture, growing one specific product, and came in when their product was in season.

Strawberries are the best example. Up until last year, the majority of stands in By Ward were held by one person. So although you had the impression you had many different stands, there was one person controlling the majority of them and everything that was sold there was trucked in from Oka or l'Île d'Orléans. Local producers had a hard time, and there was a wonderful newspaper article about a strawberry grower who had a very tough time this summer trying to get on to Parkdale Market. The bottom line is, we brought in strawberry farmers for the first time in decades in By Ward.

**Mr Bisson:** I plan on moving an amendment under clause 3(2)(b) in order to clarify, but I take it that you wouldn't have a problem in making sure that we clarify that it is not the intent of the city of Ottawa to move these people out over the longer term?

**Mr Émard-Chabot:** Or to limit the size of a farm.

**Mr Bisson:** The other point is, I take it obviously you're in support of the point of origin being removed from the bill?

**Mr Émard-Chabot:** Yes.

**Mr Bisson:** Okay. That covers off that issue.

In regard to the issue of Bill 26 that was raised previously, I think we need to be clear here. What Bill 26 allows you to do is to regulate a business within your community. Clearly, it allows that to happen. It allows you to discriminate in some cases as well. Where Bill 26, I think, might be at issue—and it's a question of interpretation—is the ability for you under subsection (2) that you have in Pr42 to happen, which is the establishment of an entity to allow you to operate a market, but the market is already there so it's a bit of a come-around-the-other-way type of thing. But Bill 26 clearly gives you powers that you do not have now, that you did not have then when the original bylaw had been put in place, and very much so expands your powers as a municipality to do exactly what some people here fear. I just want to be very clear about that.

**Mr Émard-Chabot:** You may be right, and obviously our legal counsel is giving us a different interpretation with regard to the market. The risk is if we do it under that legislation and it is challenged again and we go back to court, we will be back here in a year and a half asking permission again.

**Mr Bisson:** I understand your argument, but I just want to make sure that people understand what 26 does.

**Mr Émard-Chabot:** It could be happening, yes. You may be right.

**Mr Sheehan:** I happen to subscribe to a lot less regulation is what this country needs, not around this city, but this province. All right? And you are in the process of laying on some very, very prescriptive "Thou shalt not," or that "We will control," and it's said in that act. I think you get your authority to govern from the people you govern. What discussions have you had with the



farmers who oppose this bill and the other business people who oppose this bill?

**Mr Émard-Chabot:** There was a comment made that we refused to meet. There was a meeting last summer with BAM as soon as it was created, and at the time it was called the Wholesalers and Dealers Association. The mayor, the deputy mayor and myself met with the people you saw here this morning, and their bottom line was, "We want the bylaw repealed," and we said, "We cannot do that now." We knew there was some fine-tuning, we knew it was not perfect and a lot of glitches had to be worked out, but we could not simply repeal the bylaw. From that point on they said, "Well, we will go to court." We're here today because of all that.

There was a meeting organized two weeks ago, hastily called, but it was well attended despite the fact that we waited for the legislation to be introduced before calling the meeting, where we made clear—we are trying to rebuild the trust and that's where we at the city have a big problem to clear, and that's the trust that we have lost from a lot of the people whom you heard this morning. As I made it clear this morning, we're starting with a fresh slate; we want to work something out. This market is too precious. As I said earlier, if you think we're there to kick people off or reduce the number of people who go to the market, you must think we're fools. I mean, \$325 million in sales for the area, \$45 million of which comes from produce, we would be mad to do anything to hurt this.

1310

The communication process has begun. It will go on. What the final outcome will be, I don't know, and I don't think anybody in this room would know unless you're psychic—

**Mr Sheehan:** Do you consider a meeting in the summer of 1995 and a meeting in March 1996 as being adequate conversation?

**Mr Émard-Chabot:** The meeting in the summer was to repeal the bylaw. We said we could not do that and we would revisit in the fall after the first year of it being in place. We wanted to see a full year of operation with the new bylaw. The BAM group was not satisfied with this and went to court and got their victory. We then scrambled to pass an interim bylaw, which we did, and those are the bare bones that are hopefully going to bring us along through the first part of this season.

After that point, we started the procedure to appeal and the enabling legislation. We weren't sure who would introduce it. There were a lot of details to work out, and that's why we waited until the legislation was actually before you before going back to them. Our time frame is flexible. We're not trying to rush anything through, but we know the issues fairly well. I was elected a year and a half ago. The city's been at this for three years.

**Mr Sheehan:** What conversations did you have with these people prior to enacting 95-55, whatever the bylaw was? Was there any discussion? Was there any public discussion? How many?

**Mr Émard-Chabot:** Two years.

**Ms Wong:** Two years minimum.

**Mr Sheehan:** With the farmers?

**Mr Émard-Chabot:** Yes.

**Mr Sheehan:** Yet, notwithstanding that, you passed that—

*Interjections.*

**Mr Émard-Chabot:** The judge alluded to that in his decision. He recognized our efforts.

**Mr Sheehan:** I accept you at your word that you're prepared to negotiate and you come in and you talk about, "We'll make an amendment," and you'll delete clause 3(2)(b), which deals with origin, how would I take you on good faith if you're talking about leaving in 3(2)(1), the one about "prohibit the sale or offering for sale of agrifood products by persons who have not grown them"? Where's the good faith in that?

**Mr Émard-Chabot:** What that would be used for, for example—and again this hasn't been decided but this is an idea that was presented at the public meeting we had two weeks ago—was setting up different areas, one area for people who only sell what they grow and do not supplement and buy things from other places, an area for people who only do that. That's an idea that has a lot of merit. Consumers would know where to go if they want to buy from a farmer. We would be a lot stricter. We could offer incentives to bring farmers in. But to do that, we would have to be able to prohibit in a certain area the sale of things that are not grown by the person who's selling them and have penalties for people who would not uphold—

**Mr Sheehan:** Who's setting out this marketing plan?

**Mr Émard-Chabot:** What do you mean?

**Mr Sheehan:** Well, what you're describing is a marketing plan. You're going to design the floor—

**Mr Émard-Chabot:** It's just—

**Mr Sheehan:** Something tells me you've got a bunch of politicians trying to act like businessmen. That scares the hell out of me.

**Mr Émard-Chabot:** We, under municipal law, run markets. That was a decision that was made decades ago by this province. We run a \$45-million grocery store. We don't have a choice, and if we don't run it, nobody else will.

**Mr Sheehan:** It survived 160 years—

**Mr Émard-Chabot:** With regulations enacted similar to the ones that we have now.

**Mr Sheehan:** —without these regulations—

**Mr Émard-Chabot:** There were prohibitions on sale of goods.

**Mr Sheehan:** But you're talking about putting in fairly prescriptive regulations.

**Mr Émard-Chabot:** They were there. People could not sell crafts—

**Mr Sheehan:** Then why do you want this act?

**Mr Émard-Chabot:** Because we can't do it any more, because the judge said we couldn't.

**Mr Sheehan:** The judge said you couldn't discriminate on price, and that's all he said.

**Mr Émard-Chabot:** No. He said we can't create categories.

**Mr Sheehan:** He said you couldn't discriminate on price. Bill 26—I checked with counsel—would permit you to do the discriminating the judge said you couldn't do.

**Mr Émard-Chabot:** He said we couldn't create different categories and treat people differently, and it is



our intention—the artist cannot pay the same fee as somebody who deals a lot of produce; that doesn't make sense. We have to charge the same fee right now because we can't create categories. This is the type of discussion we're into. This type of discussion—if you want to substitute yourself for city council, you're welcome to it. But we've gone through years of this, of trying to balance—and there are not just two sides but 20 sides to this issue, and that's what we're trying to balance. Without the powers that have been used for 160 years—this is nothing revolutionary. We have prohibited sales, we have limited the number of stands, we have told people where they could set up, what time they could set up, how many days they could set up. There's nothing new.

Most of the new farmers' markets in this province are much more rigid than we will ever be in prohibiting any type of reselling. Most of the farmers' markets created today, the last 70 that have come on line over the last 10 years, say, "It is a farmers' market, farmers only, and that's it."

**Mr Sheehan:** What I'm trying to suggest is that you should run your own business and not ask Queen's Park to run your business.

**Mr Émard-Chabot:** We don't ask you to run it. We ask you to give us the powers to run it.

**Mr Sheehan:** We have given it to you in Bill 26.

**Mr Émard-Chabot:** Our lawyers aren't sure and the government lawyers aren't sure either.

**Mr Sheehan:** I suggest, though, in the absence of proof, that you might try the law we put in. We tried to give you the help.

I have another question for you. You mentioned that you do not permit or won't permit corporate farms. Did I hear you correctly?

**Mr Émard-Chabot:** No, we do not permit corporations. Farmers, if they are incorporated, are allowed. Corporations such as Loblaw's, for example, would not be allowed.

**Mr Sheehan:** I was trying to understand Mr Rochon when he was describing how he was going to deal with the supply of produce when it's in season and when it's not in season. I had a little problem with the practicality of his answer. Can you speak to that?

**Mr Émard-Chabot:** So do we. That's one of the bones of contention we're going to discuss. Supplementation is one of the two really big issues that have to be revisited.

**Mr Sheehan:** Since we as a government have said to you that Bill 26 gives you the authority you need, and since the people sitting in the back of the room have indicated a strong desire to deal with you as you would deal with them on their own, why are you reluctant to follow the course of the law that's there now for your use? Why are you asking us to make a special exemption? The next thing we know, we're going to have one for Windsor and then one for St Catharines and on and on and on, and we're trying to get out of the business of overgoverning. Would you mind answering that?

**Mr Émard-Chabot:** I'll be happy to. I have my lawyer and your government lawyers telling me they're not sure Bill 26 applies to markets. I do not want to enact

bylaws that are going to be challenged. All you need is one unhappy person, and believe me, in this business we cannot make everybody happy. We will always have at least one person unhappy. This person goes back to court, gets a judge who says: "My interpretation? Sorry, city of Ottawa, Bill 26 doesn't apply to markets." Then we are back here in a year and a half. We've lost two years, with uncertainty in the market that is our biggest economic generator. As a city councillor I can't afford that.

**Mr Sheehan:** I had counsel for municipal affairs read me the section. It doesn't seem to say there are any qualifications on your right. Maybe I could ask the lady to read it so you'll hear what it says.

**Mr Émard-Chabot:** I was here when it was read. I know what your intention was. I'm not sure judges always exactly see the intention of legislation, and that's the problem.

**Mr Sheehan:** In the absence of that, I suggest you go back to your people and work it out. That's what seems to be coming out of everyone's mouth here. Talk to the people you are trying to regulate. That's my recommendation.

**Mr Émard-Chabot:** And we will.

**Mrs Boyd:** Your real issue is, what if you go back and try to work it out and somebody's unhappy and again goes back and gets a judge to say you don't have the right to do that?

**Mr Émard-Chabot:** Then we're back here. We'll be back here in a year.

**Mrs Boyd:** Exactly. The issue really is, whatever the intention of government in the past to enable cities to govern markets, you did that for 160 years until somebody decided to take it to court, at which point a court decided you couldn't do it.

**Mr Émard-Chabot:** I would put it to you that many markets in this province are in the same situation.

**Mrs Boyd:** Mine certainly is. I understand what you're saying, that because this court covered your particular ability to do it, you are now disadvantaged compared to virtually every other community.

**Mr Émard-Chabot:** For doing the same thing as we've been doing forever.

**Mrs Boyd:** Exactly, and others continue to do it. You're saying you need this bill to do what every other city that has a farmers' market currently does and that you were able to do until October 6, 1995, when all of a sudden you were prevented from doing it by a court finding.

**Mr Émard-Chabot:** It's that simple.

**Mr Shea:** Mr Bellomo, is it your opinion, Bill 26 notwithstanding, that the courts generally have been of the mind that if a specific wording isn't there, you don't have the authority?

**Mr Bellomo:** Yes, that's the general approach the courts have taken, that municipalities need fairly specific legislation to do the type of thing we want to do in Ottawa relating to the markets.

**Mr Shea:** In this kind of specific instance.

1320

**Mr Bellomo:** Exactly.

**Mr Shea:** Who owns the property we're talking about?

**Mr Bellomo:** The city of Ottawa.

**Mr Shea:** And who speaks on behalf of the city of Ottawa?

**Mr Bellomo:** Our council.

**Mr Shea:** And the council has dealt with this how many times?

**Mr Bellomo:** Several times.

**Mr Shea:** Then can I ask a question of Councillor Émard-Chabot? Can you tell me, for example, how many meetings individual members of council have had with their constituents on this matter?

**Mr Émard-Chabot:** With their own constituents? Probably none, on this specific matter. The city, as a corporation, has organized public meetings.

**Mr Shea:** Has council held meetings to receive deputations?

**Mr Émard-Chabot:** Yes, a number of times.

**Mr Shea:** How many times?

**Mr Émard-Chabot:** Through the whole process, the strategic plan, for two years.

**Ms Wong:** Yes, through the whole process, and I'm part of the last council too—many meetings and opportunities to work out situations. Out of possibly 14 items, 11 were agreed on and some were improved to help the community that felt concerns; others in the end were not totally agreed to. But there were two years of consultation, and many good things came out of it, seniority being one of them.

**Mr Shea:** Am I taking it correctly, if there's been two years of consultation, that somewhere in that period there was a municipal election?

**Mr Émard-Chabot:** Yes. Between the adoption of the strategic plan and the adoption of the bylaw which implemented it, there was a municipal election.

**Mr Shea:** Within the spirit of Bill 26, would you accept that the municipal election is likely the best test of public opinion?

**Mr Émard-Chabot:** Generally speaking.

**The Chair:** Thank you. The applicant may vacate the witness table. Are the members of the standing committee ready to vote?

**Mr Bisson:** I'd like to bring forward an amendment.

**The Chair:** There are some amendments. We'll move them at the appropriate time for each section.

We are voting on Bill Pr42, An Act respecting the City of Ottawa. Shall section 1 carry? All in favour? All opposed? Defeated.

Are there any amendments to section 2?

**Mr Rollins:** I move that subsection 2(1) of the bill be struck out and the following substituted:

"Bylaws respecting markets

"(1) The council of the corporation may pass bylaws for establishing, maintaining and operating one or more markets within the following areas in the city of Ottawa and for regulating or prohibiting the activities within the markets, which may be different from each market:

"1. The area (known as the By Ward Market) which is bounded by Sussex Drive on the west, Murray Street on the north, Cumberland Street on the east and Rideau Street on the south.

"2. The area (known as Parkdale Market) which is bounded by Hamilton Avenue North on the west, Armstrong Street on the north, Parkdale Avenue on the east and Wellington Street on the south."

**The Chair:** Shall the amendment carry? All in favour? Those opposed? Defeated.

Shall section 2 carry? All in favour? Those opposed? Defeated.

Are there any amendments to section 3?

**Mr Rollins:** I move that clause 3(1)(e) of the bill be amended by striking out "their point of origin" in the sixth line.

**The Chair:** Shall the amendment carry? All in favour? Opposed? Defeated.

Are there any more amendments to section 3?

**Mr Bisson:** This is getting stranger by the minute. I have a motion here.

I move that clause 3(2)(b) of the bill be amended by striking out "and which may be based on" in the fourth and fifth lines and substituting "and which must take into account."

**The Chair:** Shall the amendment carry? All in favour? Those opposed? Defeated.

Shall section 3 carry? All in favour? Those opposed? Defeated.

In keeping with previous meetings, we will collapse several sections. Shall sections 4, 5, 6 and 7 carry? All in favour? Those opposed? Defeated.

Shall the preamble carry? All in favour? Those opposed? Defeated.

Shall the title carry? All in favour? Those opposed? Defeated.

Shall the bill carry? All in favour? Those opposed? Defeated.

Shall the bill not be reported to the House? That's carried, that the bill will not be reported to the House.

Mr Shea has one more item.

**Mr Shea:** At the last meeting, committee members asked to have several items tabled for their information, and instead of taking the time of the committee now, I will table them. Those concerned the status of discussion papers on the Ontario Heritage Act, and relationship of Bill 20 amendments and provincial policy statement to private legislation dealing with development on heritage properties. It also deals with other general items that were brought to the attention of the committee. I file that now for the committee's information.

**The Chair:** I wish to thank all present. This meeting is adjourned.

*The committee adjourned at 1327.*









## CONTENTS

Wednesday 3 April 1996

<b>City of Ottawa Act, 1996, Bill Pr42, Mr Guzzo</b> .....	T-49
Garry J. Guzzo, MPP	
Jerald Bellomo, director of corporate law and solicitor, city of Ottawa	
James Sevigny, commissioner of planning, economic development and housing, city of Ottawa	
Stéphane Émard-Chabot, councillor, city of Ottawa	
Pierre Labelle, owner and manager, Château Lafayette	
Michel Roy, president, Business Action for Markets	
George Stairs, Business Action for Markets	
Jay Acton, Business Action for Markets	
Bob Chorney, executive director, Farmers' Markets Ontario	
Gerard Rochon, president, By Ward Market Growers' Alliance	
Philip Waserman, president, By Ward Market Business Improvement Area	
Joan Wong, councillor, city of Ottawa	

### STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

**Chair / Président:** Barrett, Toby (Norfolk PC)

**Vice-Chair / Vice-Président:** Smith, Bruce (Middlesex PC)

\*Barrett, Toby (Norfolk PC)

\*Bisson, Gilles (Cochrane South / -Sud ND)

\*Boushy, Dave (Sarnia PC)

\*Hastings, John (Etobicoke-Rexdale PC)

\*O'Toole, John R. (Durham East / -Est PC)

\*Pettit, Trevor (Hamilton Mountain PC)

Pouliot, Gilles (Lake Nipigon / Lac-Nipigon ND)

\*Pupatello, Sandra (Windsor-Sandwich L)

\*Rollins, E. J. Douglas (Quinte PC)

Ruprecht, Tony (Parkdale L)

Sergio, Mario (Yorkview L)

\*Shea, Derwyn (High Park-Swansea PC); parliamentary assistant  
to the Minister of Municipal Affairs and Housing

\*Sheehan, Frank (Lincoln PC)

Smith, Bruce (Middlesex PC)

*\*In attendance / présents*

#### **Substitutions present / Membres remplaçants présents:**

Boyd, Marion (London Centre / -Centre ND) for Mr Pouliot

Lalonde, Jean-Marc (Prescott and Russell / Prescott et Russell L) for Mr Sergio

Morin, Gilles E. (Carleton East / -Est L) for Mr Ruprecht

Parker, John L. (York East / -Est PC) for Mr Smith

#### **Also taking part / Autres participants et participantes:**

Hon Norman W. Sterling, Minister of Consumer and Commercial Relations

Kelly Yerxa, solicitor, legal branch, deputy minister's office, Ministry of Municipal Affairs and Housing

**Clerk / Greffière:** Lisa Freedman

#### **Staff / Personnel:**

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## Legislative Assembly of Ontario

First Session, 36th Parliament

## Assemblée législative de l'Ontario

Première session, 36<sup>e</sup> législature

# Official Report of Debates (Hansard)

Wednesday 17 April 1996

# Journal des débats (Hansard)

Mercredi 17 avril 1996



Standing committee on  
regulations and private bills

Comité permanent des  
règlements et des projets  
de loi privés

Chair: Toby Barrett  
Clerk: Lisa Freedman

Président : Toby Barrett  
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LEGISLATIVE ASSEMBLY OF ONTARIO  
STANDING COMMITTEE ON  
REGULATIONS AND PRIVATE BILLS

Wednesday 17 April 1996

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO  
COMITÉ PERMANENT DES RÈGLEMENTS  
ET DES PROJETS DE LOI PRIVÉS

Mercredi 17 avril 1996

*The committee met at 1004 in committee room 1.*

ASSOCIATION OF ONTARIO  
ROAD SUPERINTENDENTS ACT, 1996

Consideration of Bill Pr53, An Act respecting the Association of Ontario Road Superintendents.

**The Vice-Chair (Mr Bruce Smith):** The first item on the agenda today is Bill Pr53. The sponsor is Mr Ted Arnott. Mr Arnott, please proceed and, for Hansard purposes, introduce yourself and the applicants.

**Mr Ted Arnott (Wellington):** Good morning. I'd like to introduce my friends here today. I'm pleased to sponsor Bill Pr53, An Act respecting the Association of Ontario Road Superintendents. With me this morning are my constituent Gary Williamson, the roads superintendent for the town of Mount Forest and past president of the Association of Ontario Road Superintendents, and Don Dean, the chief administrative officer of that particular organization. I'd like to turn it over to them. They have a brief presentation for committee members.

**Mr Gary Williamson:** Good morning, ladies and gentlemen. It's my pleasure to be able to speak to you with regard to our act. Ted has been good enough to sponsor it for us. I'd just like to give you a brief background as to what our association is about and why we would like to have legislation.

The Association of Ontario Road Superintendents has gone through many changes over the past few years, which reflects how our members' responsibilities have changed in the municipal world. We are responsible for spending millions of dollars on infrastructure, and due to the economic times, it is very important for today's road superintendent to be well versed in every aspect of his or her job in order to achieve the best bang for a buck.

The precedent from the past, when a road superintendent could be a part-time farmer, a semiretired person or someone hired as a political favour, has come to an end. The position of road superintendent has grown into a very important profession, and the AORS is committed to the professional development of its members which will lead to the recognition and credibility they deserve. Our annual trade show, one-day seminars and forming of local associations have all helped to promote today's road superintendents, but we are looking to the future, using the Ontario Good Roads Association's road school as a base for AORS development of a certification program for its members that involves a combination of education and experience. This program has been accepted very well by the AORS membership and in fact some municipalities, when advertising to hire a road superintendent,

ask for someone who has or is willing to obtain a CRS designation.

For the reasons aforementioned, AORS believes it is time for the next step in our development, and that is to have our association, as well as our certification program, recognized by way of legislation. This recognition would help to develop the credibility road supervisors deserve, protect our CRS designation and confirm the importance of our certification program as a whole. Clerk-treasurers, engineers and drainage superintendents are all examples of associations that have been recognized through legislation, and it is our position that today's road superintendent is also very important to the future developments in the municipal world and deserves the same recognition.

Taking into account that there are no more conditional grants for roads and that the decision to spend or not to spend on municipal roads is made at the local level only emphasizes the need for a qualified road supervisor. With the pending cutbacks to municipalities, road supervisors will become even more instrumental in assisting local councils to decide on priorities and then maintain a consistent infrastructure system throughout the province.

While our association provides a means to stimulate and disseminate the exchange of ideas and information relating to road construction and maintenance to and between municipalities, our main objective is to promote training and development of experienced, reliable and efficient personnel to manage public roads.

Legislative recognition of our association, certification program and CRS designation will be an integral step in achieving our goals. The position of road supervisor would be accepted as a profession, resulting in credibility not only with municipalities but also with other government agencies and professional people.

The AORS membership is committed to achieving this goal, not only for today's road supervisors, but also so that future road supervisors will be proud and qualified in their chosen profession. As always, AORS is committed to being professional, progressive and proud.

**The Vice-Chair:** Thank you very much for your presentation. May I call on the parliamentary assistant, Mr Shea, for any comments on behalf of the government.

**Mr Derwyn Shea (High Park-Swansea):** As most of us are aware, the act will allow the Association of Ontario Road Superintendents to govern and discipline its members and to grant to members the exclusive right to use the designation "certified road supervisor." It continues in the track of other certifications. There are no ministerial objections from any of the ministries in the government.

**The Vice-Chair:** We'll take some questions from the committee now.



**Mrs Sandra Pupatello (Windsor-Sandwich):** Can you tell me what the cost of certification is for the individuals, and the cost is borne by whom?

**Mr Don Dean:** The cost for certification is \$150. It's a one-time fee. We have three levels within the certification program, so they don't have to pay that again. There's a maintenance fee of \$50 per year. These are sometimes paid by municipalities or they're paid by individuals.

1010

**Mr Gilles Pouliot (Lake Nipigon):** Let me begin by mentioning that you're very well sponsored, very well represented by Mr Arnott's presence. For those of us who have been in the House for some years, we certainly appreciate his sense of fairness, so it's of little surprise that we're acquiescing to your demand and we will join in wishing you well. I also happen to be very fond of the Milton-Cambridge area; it's a special place in Ontario.

Given the government's present state of mind, I think you're deserving and need all the help you can possibly get in terms of jurisdiction, imagination, for the dollars are getting fewer. I'm not the one saying this, but I read in one of the newspapers that it was simply an act of downloading. I want to wish you well in the future. If you persevere, things comes to pass. I will be supporting the bill.

**Mr Mario Sergio (Yorkview):** In order to acquire the so-called CRS designation, where and what kind of training would these people be getting?

**Mr Dean:** Where could they get the training? Is that what the question is?

**Mr Sergio:** In order to acquire the designation.

**Mr Dean:** We have been basically tied in with OGRA school in the University of Guelph in the past. They can gain it there, they can gain it at local colleges throughout the province, pretty near anywhere, except there are some courses that are pretty near tied in to OGRA because they deal with maintenance of roads and there are not too many colleges that really get into how to set a snowplow up and stuff like that. But it's very universal; it's not a closed-shop thing or a closed educational—

**Mr Sergio:** I have no problem supporting your request here, but tell me, in answer to one of the comments that this would help in providing better, more qualified service and assist in infrastructure maintenance and stuff like that, what do you think pertaining to the present state of roads in Ontario?

**Mr Dean:** What do I think of the present state of roads in Ontario?

**Mr Sergio:** Yes, and what have you been doing, what has your association done about that?

**Mr Dean:** The present state of roads in Ontario is deteriorating. I think you can see that across the province.

**Mr Sergio:** Wouldn't that be one of your association's concerns, to speak up for it?

**Mr Dean:** In a sense, yes, but we're not a political association.

**Mr Sergio:** It's safety.

**Mr Dean:** We're more professional, but our responsibility is to maintain the roads and any new construction on the roads.

**Mr Sergio:** A question of safety: Aren't you concerned that most of the roads are full of big potholes?

**Mr Dean:** Oh, definitely.

**Mr Sergio:** Yes. Are you voicing your concern to the government?

**Mr Dean:** I think that has happened. I don't know if you've read the London Free Press, but OGRA—we're not really completely related to them, but we're good friends with them—has expressed that concern in the London Free Press.

**Mr Frank Sheehan (Lincoln):** I apologize for being late, but I've just had a quick look at Mr Arnott's notes. You might have to repeat yourself, and I apologize.

What is the certification process? Is there a course of studies already determined? If I start here and it is a recognized progression, can you tell me about it?

**Mr Dean:** Yes. In the first level, which we call CRS, there are two Mahoney courses that you have to take at the University of Guelph. One is in construction and one is in maintenance. These are three-day courses and the binders are about yea big. Then, having taken those courses, you're still not considered certified; you still have to have three years' experience in the field in a supervisory capacity. That's the first level. The second level is that you must complete the first level and take some additional courses and have five years' experience in the field as a supervisor.

**Mr Sheehan:** What are the additional courses?

**Mr Dean:** Human relations is one. There's a varied amount they can take. Health and safety is one of them as well.

**Mr Sheehan:** The reason for my questions is that the act seems to suggest you want to set up a quasi-professional status to this, all right? I don't have a problem with that, but you're not engineers.

**Mr Dean:** We're not engineers, no.

**Mr Sheehan:** What makes you different from somebody else? What do these courses qualify you to do?

**Mr Dean:** To work in roads and maintenance and construction. We're not designers.

**Mr Sheehan:** Is there another way to recognize yourselves, as opposed to putting in a provincial act which gives you quasi-professional status?

**Mr Dean:** Not that I'm aware of.

**Mr Sheehan:** How did you function up to this point in time? Let's say you wanted to move from where you are to another job. How do you cite your qualifications? Are there any designations?

**Mr Dean:** If you're moving from one job to another, it depends on what the new municipality wants and what qualifications they're after, but you would state that you had passed the CRS courses and what level you were in.

**Mr Sheehan:** Do the available courses take me from the fundamentals of roadbuilding to the end of it?

**Mr Dean:** Yes.

**Mr Sheehan:** So there is a progressive and a fairly detailed course of study?

**Mr Dean:** Yes, there is.

**Mr Williamson:** If I could add to that, initially when you take the Mahoney course, it's a generalization of construction and maintenance. As you progress to level 2, it becomes more specialized, whether it be bridges or



asphalt or roadbuilding itself. As you move on to level 3, you get more into the administration end of it, techniques, how the government works, funding scenarios, your liability with regard to accidents, that type of thing. It basically starts you at ground level and takes you up through.

Unfortunately it's very hard to say that yes, you're going to go to school for two years so that you can come out with that designation. We are a hands-on group of people. As I've stated in the past, rightly or wrongly, very often a road superintendent was someone semiretired who ran a farm on the side or was the reeve's cousin who got hired for the position because the council itself actually ran what was taking place.

As changes have come through not only in funding but with everybody maturing and a little more responsible for what's actually happening because the dollars aren't out there, the individual who is a road supervisor is looked upon to give ideas and suggestions as to how the money can be spent most wisely.

We're trying to set up a system where, if a municipality wishes to invest some money in its personnel being a road supervisor and wishes to send him to school to help him make those decisions more properly, then it's advantageous not only to the government and to the municipality, but also to the road supervisor to be more qualified to do his or her job.

**Mr Sheehan:** Where do these Mahoney courses come from?

**Mr Williamson:** They're set up through the Ontario Good Roads Association. They're put on basically by volunteers who may be engineers, designers or some road superintendents who have taken other courses who are already qualified. Again, it's tiered to the hands-on perception in that there's a lot of discussion, interacting. We have people from health and safety come to put on courses. It's very generalized, and as you step through it, it becomes a lot more specialized, but it is OGRA that actually sets the criteria in these courses. I might add that after the courses are taken, there is an exam that generally takes anywhere from an hour and a half to two and a half hours that must be written.

**Mr Sheehan:** Is there some intent in the bill—I just scanned it—that would give you some kind of exclusivity to providing that service in the future? If the township of whatsit wanted a road superintendent, is it your intention that you stipulate somewhere along the line that you must have this kind of certification before you can be a road super?

**Mr Williamson:** No, that's not our intention.

**Mr Sheehan:** You do not intend to be exclusive.

**Mr Williamson:** What we're trying to do is give municipalities the opportunity to have qualified people to help them make their decisions. If they wish to do it otherwise, that is totally their decision.

1020

**Mr Pouliot:** I need your help. I was the Minister of Transportation with the other regime before these people cost me my job. I know the Ontario Good Roads Association, which is your sponsor, quite well. In fact, I used to dread their conventions—not because you don't meet nice people. In fact, I met my best friends every five minutes

throughout the convention, for they wanted some of their money back.

I've read your mandate and I'll save you the quote, but I want to draw your attention to section 11 on page 3 of Bill Pr53: "This act does not affect or interfere with the right of any person who is not a member of the association to practise or work as a road supervisor, municipal officer or municipal employee in the province of Ontario."

Allow me to be parochial. I live in a small town, Mantouowadge, in northwestern Ontario. It's inland, it's not very large, and we do things with moderate means. People do the best they can, and profess and bring forth a certain expertise. But we have over 880 hamlets, villages, municipalities, jurisdictions that depend on transfer payments and also depend on the province to set standards, the focus being that you have approximately 136,000 kilometres of roads in the province.

My riding is the size of Germany; it's 26% of the overall land mass. We have 400 miles of the riding that has anything but a winter road; it goes all the way to Hudson Bay. We don't have members who belong to sophisticated organizations. It's not our makeup, where we live. I'm pleased that section 11 of the bill does not restrict people. In other words, you can do a job, can get that essential service to the citizens without having to belong to the honourable organization you are seeking acquiescence for. I'll be supporting it. It takes two years; it's done in spare time, evenings. It's costing people in the pocketbook so that we all benefit. It's about time they get recognized.

**Mr E.J. Douglas Rollins (Quinte):** I suspect the intent of having this course is to move people already working with your municipality up into that position, rather than having somebody come in from outside who hasn't had that experience. Is that basically one of the intents?

**Mr Dean:** That's the basic intent, yes.

**Mr Rollins:** And having somebody who has worked with the municipality and has had some experience snowplowing and running a grader and things of that nature working up through the system, to acknowledge them. It is an association, of course, but it will allow those people to move forward. I think you should be complimented for doing that. People who have more experience should be acknowledged. You're to be commended for trying to bring something like this forth, and I'll certainly be supporting it too.

**Mr Williamson:** Just to add to that, not only does it allow you to move within your municipality up to that position, but many municipalities have found that it's advantageous for them to send people who are not in that position at present away to take the course, and it's allowed them to look elsewhere for a job, whether it be with another municipality or whatever. It increases how valuable you are as an employee not only to them but should you go looking for a job elsewhere.

The other thing I'd like to touch on is that we had some people from Alberta come down to the road convention probably about six years ago the first time, and then they sent down someone else from one of the universities, with whom we met, and they are instituting



a form of certification in Alberta. They were impressed with what we have here.

**Mr Rollins:** Any further education helps anybody out. This is of further education, and recognition of that education and experience you people have.

**The Vice-Chair:** Seeing no further questions, are the members prepared to vote?

Shall sections 1 through 14 of the bill carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Thank you very much, gentlemen, for your presentation today. We certainly appreciate the time and thoughts you provided to the committee.

**Mr Arnott:** Mr Chairman, could we get an explanation of where the bill goes from here, for the benefit of the deputants?

**Clerk of the Committee (Ms Lisa Freedman):** This afternoon all of today's bills are reported back into the House. They then are put on the order paper to be called for second and third readings, and second and third readings would be coordinated through the government House leader's office.

**Mr Arnott:** Thank you very much.

#### ASSOCIATION OF REGISTERED GRAPHIC DESIGNERS OF ONTARIO ACT, 1996

Consideration of Bill Pr56, An Act respecting the Association of Registered Graphic Designers of Ontario.

**The Vice-Chair:** The second item on our agenda today is Bill Pr56. Mr Boushy will be the sponsor of this bill today. I ask the applicants to come forward. Make yourselves comfortable.

**Mr Dave Boushy (Sarnia):** Actually, Margaret Marland was to present this to you. She is unable to be with us this morning, so I'm taking her place.

Bill Pr56 will incorporate the association and enable it to govern and discipline its members and to grant its members the right to exclusive use of the designation "registered graphic designer." In short, it establishes the graphic designers as a self-regulating profession.

This bill appears to be well accepted by the graphic designers. Many other professions are self-regulating, and typically the only resistance possibly encountered is from already practising members, if any. They feel that their right to practise is threatened. However section 10 on page 3 in the bill takes care of that. It says, "This act does not affect or interfere with the right of any person who is not a member of the association to practise as a graphic designer."

Now I'll turn it over to the people who represent the association.

**Mr Albert Ng:** Good morning, Mr Chair, committee members. My name is Albert Ng, co-chair of the graphic design professional accreditation committee. With me today are Pauline Jaworski, past president of the Society of Graphic Designers of Canada, northern Ontario chapter, and Joanne Radford, accreditation adviser.

Thank you for your consideration of Bill Pr56, An Act representing the Association of Registered Graphic Designers of Ontario. I would also like to thank Mr

Boushy for standing in for Mrs Marland, the sponsor of the bill, whose support and encouragement we appreciate very much.

Design for a Strong Ontario, 1995: A Strategy for the Ontario Design Sectors, funded by the Ministry of Economic Development and Trade, noted that at present graphic design is the only one of five core design disciplines whose members are not licensed, registered or chartered. One of the 13 recommendations of the report is that graphic design work towards accreditation. The report also stated, "The sector strategy supports the Ontario chapter of the Society of Graphic Designers of Canada in its efforts to obtain accreditation and formally requests the province of Ontario to proceed with the accreditation."

Last year the federal government, through Human Resources Development Canada, commissioned a year-long study of the design sectors across the country. In the draft report it is recommended that graphic designers seek accreditation.

The Association of Registered Graphic Designers of Ontario will regulate the practice of its members for the protection of the public as well as furnish means and facilities by which members of the association may increase their knowledge and skills in things related to the practice of graphic design. The bill does not prevent non-members from calling themselves graphic designers; it prevents them from using the designations "registered graphic designer" and "RGD," thus the public's right to choose is not impinged upon.

In anticipation of the passage of Bill Pr56, the graphic design community in Ontario has begun to set up committees to develop a grandfathering provision, develop bylaws and engage in other activities necessary for the association to fulfil its mandate of protection of the public interest and advancement of the profession.

1030

The accreditation drive in Ontario is impacting not only the rest of the Canada, where the other provinces are just starting their accreditation process, but also the rest of the world. I would like to quote from one of the major American design magazines, Step-By-Step Graphics: "It would be a mistake to consider the accreditation in Ontario simply as a history lesson. The Society of Graphic Designers of Canada's efforts in Ontario may be a map to the accreditation for designers around the world."

I am the vice-president of the International Council of Graphic Design Associations. I have been asked to share our experience and assist other countries, such as Germany, Austria, Chile, Argentina, Uruguay, Brazil, Taiwan, Korea and Australia in their accreditation efforts.

I would like to thank you for your consideration of Bill Pr56. Pauline, Joanne and I would be pleased to answer any questions you may have.

**The Vice-Chair:** Thank you very much for your presentation. Mr Shea, as parliamentary assistant do you have any comments for the committee or the applicants?

**Mr Shea:** As with Bill Pr53, so too with Bill Pr56. This is one of a large number of bills that have been requested and obtained since 1985 and it follows on the same track. In this case the act will enable the Associ-



ation of Registered Graphic Designers of Ontario to govern and discipline its members in the public interest and grant its members the right to exclusive use of the terms "registered graphic designer" and "RGD."

I might indicate also for the purposes of the committee that this initiative is strongly endorsed by the government of Ontario in the document *Design for a Strong Ontario*. There are no ministerial objections at all to this bill.

**Mrs Papatello:** Can you tell me what the cost is for the accreditation system? Does the company typically pay for its employees who are graphic designers or is it borne by the individual who carries the accreditation?

**Ms Pauline Jaworski:** The cost for a membership into the society is \$300 per member. Individuals usually pay for their own. Some government bodies pick up that cost and some companies pick up the cost for their employees. It's a split, I would say.

**Mrs Papatello:** So it's not a company that becomes registered, it's the individual.

**Mr Pouliot:** I too listened intently to your presentation. After having looked at the similarities pointed out by Mr Shea in terms of counsel drafting these bills, they tend to be similar and unless you're a real hockey fan, you tend to treat one like the other and not always give it the attention it deserves.

You mentioned twice that protection for the public was important, was paramount. I took from your tone that if you're able to self-regulate yourselves, you would have more of a hands-on, and I liked this act of benevolence to protect the public.

There are other associations that exercise, with respect, the same claim. For instance, members of the law profession also have in their preamble that they will protect the public, and they do so. But you've also mentioned, and so do they, that it would protect members of the profession. You didn't say that the first time, but the second time you threw it in and it is quite blatant. Why would I as a member of the public, a client, need to be protected? Does that entail that perhaps I really need protection, that I could be a soft touch or I could be taken?

We will be supporting this. We don't have the numbers, but we have the right to ask questions.

**Ms Joanne Radford:** If I could answer that, as you know, what these registration acts do in all the professions is set for their members minimum standards of education, of special development etc. If a member of the public is looking for a graphic designer but doesn't know how to judge, they could, for example, phone the new association and say, "Is this person on your register?"

If they are, they are at the very least assured that the person has a certain basic skill level and certainly isn't in any kind of trouble legally, has not behaved in a sleazy fashion, or else they would not be on the register. Even though it's not a life and death thing, for example, like with the College of Physicians and Surgeons, it's simply a way the public can be given a choice.

**Mr Pouliot:** So you're sort of a registry. One last question. Are there any in the sister provinces, Alberta, Quebec, Manitoba, or are you in Ontario the first aside from the national organization?

**Ms Radford:** Yes, we're the first, and they are very anxiously awaiting the outcome of this, because they've already started. When, hopefully, the act goes through, the information that has been developed over the past few years will be passed on gratis to the other provinces. Now of course things differ from leg to leg, but the system is still basically the same in every province in Canada.

Self-regulation is provincial and, as I say, there's the odd quirk here and there, but once this goes through it will be the model and we've already discussed with the other provinces how anxious we are to give them whatever assistance we can, because it's an idea whose time has come. As Albert said, it's the only design profession that does not have self-regulation, and it has been recognized by all the provincial governments and the federal government. It is in the interests of the province to have this happen.

**Mr Sheehan:** Following up from Mr Pouliot, graphic design takes in packaging design, portraiture work or whatever?

**Ms Jaworski:** Signage.

**Mr Sheehan:** Why does the public need the provincial protection from you? What are you going to do me?

**Ms Jaworski:** Specifically for the signage part, if signage is not designed correctly by a designer, there could be major accidents on the roads. There should be special regulations around billboards on the roads, that they're designed properly not to have any effect on the public in terms of accidents and so forth.

**Mr Sheehan:** Is that not more of an engineering function?

**Ms Jaworski:** The design also has a major effect on that. With package design as well, the design of packaging to make sure that "Very dangerous" labelling is put on there specifically and visible to the public quickly. Those are some of the effects it could have on the public if the package is not designed properly.

**Mr Sheehan:** With respect, I find this to be just a bit overkill. I don't think the provincial Legislature should be certifying your skill as an artist. If you want to put a warning label on something, don't you think it would be sufficient for the Ministry of Health to have the proper requirement for warning, or engineering? I don't see any purpose to this, quite frankly. If I want to be a graphic artist, I can go to art school or somewhere like that and learn the requisite skill. I don't see there's any compelling public need to be protected here, I'm sorry, unless you can convince me otherwise.

**Ms Jaworski:** In graphic design anything we design leads your eye throughout the element you're looking at. Specifically for a package, if a label is placed on the wrong side or is small and in a corner where the eye will not quickly see it, it could easily not be noticed by an individual. When you are designing, there are elements and colours that have to be placed in strategic positions, and the layperson would not know how those things would fall on there to protect people.

**Mr Sheehan:** Sorry. It doesn't go ding-ding.

**Ms Radford:** The other thing too is that in these documents, like the *Design for a Strong Ontario* and the federal government study in terms of economic competitiveness in the world, as we develop our various



industries people have to be assured, if bids are going in and all this other kind of stuff, that there is at least a basic level of competence, expertise, ethics etc.

That is also one of the reasons that both the federal and the provincial governments have been extremely encouraging, almost directive, to the graphic design community to get accreditation. As mentioned before, it's the only one of the five design disciplines that does not have accreditation. I suppose there are wheels within wheels. Also, by the way, in terms once again of public protection, if somebody feels they've got ripped off, they have a place to go to complain.

1040

**Mr Sheehan:** But they have a case without having us put on the Good Housekeeping Seal of Approval, and this Legislature almost does that.

**Ms Radford:** No, I think they have to go to court. They have to go through a whole long court thing, whereas this way there are standards and basic things by which they can measure their choice of a designer.

**Mr Sheehan:** I would have to suggest to you that the public cannot abandon its sense to take care of itself to the Legislature and hope we will anticipate everything to which they're exposed. I think you could do the same thing by properly promoting your association so that association symbol of yours would bespeak all the things you have to say without us overkilling this thing and putting it in the Legislature and the legislation of this province.

**Ms Radford:** We don't see it as overkill. This is a very standard registration act—I believe somebody said there have been many since 1985—which simply allows a community to accept the Association of Registered Graphic Designers, and it just reserves for them the title of "registered graphic designer" or "RGD." It's not a licence; it's hardly exclusivity. This is very standard. The human resource professionals have it, all the graphic—

**Mr Sheehan:** I'm missing something.

**Mr Chris Yaneff:** My name is Chris Yaneff. I'm a graphic designer. I've been operating in Toronto for 50 years. I just want to address Mr Sheehan's question.

I was hired by the city of Toronto parking to simplify the parking. What was happening with the city of Toronto, people were going in and out in the wrong areas. Being a graphic designer who studied communication and colour, I simplified to save the city a lot of money by marking the ins of the parking lots green and the outs red so that people knew where to go. I also worked for Metro Toronto in designing all the signage so the trucks that were on the road had markings from a safety point of view. Our years of training in colour and design have helped the city save money on these areas, and I think it's more scientific than you think.

**Mr Sheehan:** All I'm saying is, that just gives you a competitive advantage, because you're really good at what you do. I don't see why you need certification—

**Mr Yaneff:** But if someone came to the city and they hired someone who wasn't a registered designer, he may not have the knowledge and the experience.

**Mr Sheehan:** I defer.

**Mr Pouliot:** If you use blue as a colour, you get the bill passed right away; if you use green and red—

**The Vice-Chair:** Could I have the attention of the committee members? In an effort to avoid debate on the issue, Mr Sheehan, I have an additional question from Mr Hastings for the applicants.

**Mr John Hastings (Etobicoke-Rexdale):** You were speaking earlier about international competitiveness and how that impacts the Ontario economy. Does the use of the designation "RGD" enhance and protect your work, particularly in packaging and advertising internationally and with respect to intellectual copyright?

**Ms Radford:** I don't believe so. What it is more, with getting this, is that if Canada wants—okay, here's a perfect example. In the area of plastics, I don't know if you're aware of this, but there is a sector strategy in plastics. We know plastics are used for everything, and of course there's a lot of design involved in plastics, be it packaging or be it actual objects.

When Ontario firms or Canadian firms are making bids and they've got their list of people, they look for experience, they look for credentials. As a matter of fact, from the plastics industry we have encouragement, because they use designers so much, to have a registered graphic designer—member of—in other words, a professional. Not only do we have professional engineers, we have professional marketers, professional operators. That's why there is interest of both the federal and the provincial governments in this in that it is part of a thing that's bigger than simply designation.

**Mr Hastings:** I guess what Mr Sheehan may have been talking about is an article in Canadian Business in 1995, I think in summer, dealing with the whole theme of excessive credentialism that's starting to appear in education etc, and if you do not have the specific designation of whatever particular field you're in, that somehow you are marked as a failure. The article went on to point out that particularly entrepreneurial people are managing to compete without all the professional designations, degrees and so on.

My concern would be from that perspective. Would you like to comment on whether you see this in any way as part of that trend towards excessive credentialism?

**Ms Radford:** No. First of all it is a registration act; it's not a licensed, exclusive right to practice. In the compendium that went with the bill, even though it isn't called for in the rules, we added in very deliberately the section on grandfathering, because, number one, the idea is to bring people in as opposed to excluding people. It's a grandfathering clause that is mainly based on the fact that until now, if you've been making your living as a graphic designer, then the public has spoken.

In years to come, because there are graphic design programs throughout the province at the various community colleges, there will be new membership standards and there will be the standard one. There will be graduation from a recognized course in graphic design and a few years of experience, and probably in the years to come an accreditation exam, but they take forever to develop.

There isn't anything in here that would prevent anybody from calling themselves a graphic designer, doing graphic design. If they said, "Look, I don't want to be bound by or bothered with this," then there isn't anything to prevent them from doing their own thing. There's no



punishment and there's no sort of, "They're going to be in big trouble if they don't."

**Ms Radford:** This is simply a quality signal to the public saying that if you hire a registered graphic designer, at least you're assured of these four basics. That's all.

**The Vice-Chair:** Thank you very much for your presentation. Seeing no further questions, are the members prepared to vote on this bill? Okay.

Shall sections 1 through 13 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Thank you very much for your presentation this morning. Perhaps the Clerk would give you a quick overview as to what happens with the bill now so you have some information on where you're going.

**Clerk of the Committee:** As with the previous bill, this bill will be reported back to the House this afternoon. Then it sits on the order paper to be called for second and third readings.

**Ms Radford:** Is it on the order paper to be called for second and third readings today?

**Clerk of the Committee:** It's up to the government House leader when it's called for second and third readings.

**Mr Pouliot:** In very short order.

**Ms Radford:** Thank you so very, very much. The entire graphic design community in Ontario, Canada and the world thanks you.

1050

#### TOWN OF MILTON ACT, 1996

Consideration of Bill Pr50, An Act respecting the Town of Milton.

**The Vice-Chair:** The next item on the committee's agenda is Bill Pr50. I would ask Mr Chudleigh, who is the sponsoring member, to come forward with the applicants. Perhaps you can wait just for a moment until the room clears a little bit so you have an opportunity to be heard.

**Mr Ted Chudleigh (Halton North):** I'd ask Mr Challinor, councillor for the town of Milton, to make some introductory remarks and answer questions.

**Mr John Challinor II:** Thank you. My name is John Challinor and I'm a town councillor with Milton. I was hoping that the audience would stay and listen to this; it's quite a bill and it's quite an interesting piece of legislation, but I guess they chose otherwise.

**Mr Sergio:** No voters in here.

**Mr Challinor:** We'll have them back in a couple of years. As a preamble, I should let you know that Bill Pr50 sets no precedent for the Legislature or for the province of Ontario. The bill is in existence in support of the town of Oakville, the city of Hamilton and the city of London, and I'm sure that my former municipal counterparts Derwyn Shea and John Hastings are knowledgeable about things heritage and would have some understanding of what this bill proposes. It is not a partisan issue.

**Mr Pouliot:** Why mention their names?

**Mr Challinor:** Because I know them, Mr Pouliot, as former municipal politicians. That's why I mentioned their names.

With legislation such as this, you either support things heritage in our province or you don't, and this seeks to provide us with some assistance in protecting things heritage in this province. It will not supersede property rights. Ultimately, the owner of a property that is in conflict with a municipality under this legislation has the authority to demolish that building, ultimately.

What this bill does is to provide an opportunity for cooler heads to prevail. That's how I would describe it. It gives us some time to sit down with the land owner and look at some options. In the final analysis we may not reach an agreement and that building may be torn down, but at least we'll have had a suitable length of time to state our case, look at some options and attempt to come to an alternative solution other than tearing down the building.

I just have about a minute's worth of written material that I would place into Hansard which hopefully will explain the current situation and what we're proposing from the standpoint of the act.

The Ontario Heritage Act currently provides, under section 34, that the council for a municipality "shall consider an application" for demolition of a heritage building "within 90 days of receipt" of the application, and within that time frame the council shall either "consent to the application; or refuse the application and prohibit any work to demolish...for a period of 180 days from the date of" the council decision. After the 180 days have expired, "the owner may proceed to demolish or remove the building or structure on the property, subject to any other act or regulation thereunder."

Bill Pr50 permits the council of the corporation of the town of Milton to refuse an application for demolition and provide notice of that decision within 90 days of receipt of the application for demolition. Bill Pr50 then provides that where an application for demolition has been refused on a designated property, the owner of the property shall not "demolish or remove the building or structure or" do any work "unless the owner has obtained a building permit to erect a new building on the site of the building or structure sought to be demolished or removed; and 180 days have elapsed from the date of the decision of the council."

This requires an individual to obtain a building permit for the new building prior to the demolition taking place. This will provide the municipality with some guarantee that the owner will be providing a new building on the site and would allow for discussions to take place regarding the preservation of heritage features in any new building. It also provides that any new building shall be completed within two years of the commencement of the demolition or removal.

The same requirements hold true for any buildings contained within a heritage conservation district. This legislation will prohibit random demolition of heritage buildings without some guarantee from the owner that a replacement building will be constructed.

That's the extent of my presentation.

**The Vice-Chair:** I'd ask Mr Shea, the parliamentary assistant, if he has any comments for the committee or the applicants on behalf of the government.



**Mr Shea:** This bill follows exactly the same wording and template as the Scarborough Bill Pr41 that this committee dealt with just a few weeks ago. There is significant precedent to it: Toronto, Hamilton, Burlington, Scarborough, and there are other examples. I think it's been well outlined by the applicant and no objections have been received; no ministries have made any objections, and I think that speaks for itself. It should be approved.

**Mr Pouliot:** In anticipation of having to leave early—I thought the proceedings would take longer—I availed of the very beginning, so I won't repeat what I said about what is really a special part of Ontario. It's not like public accounts; we don't last three hours per meeting here. I'm fully supportive of what you're attempting to get passed here.

**Mr Sheehan:** More for clarification, I hope, because I voted in favour of the bill that Mr Shea referred to: You just said something about random demolition. In light of market value assessment and a few other things that seem to be going around, raising a lot of havoc with people's finances, I have a building which has no economic value other than this aesthetic value of being antique. Does this bill preclude me from knocking that building down to avoid excessive taxes?

**Mr Challinor:** If your building has been designated by the province of Ontario as a heritage building, this legislation would affect your ability to immediately knock that building down. However, if your building has not been designated by the province, there is no objection other than what may be raised by the municipality or the local LACAC committee; but in legislation, no.

**Mr Sheehan:** Can you tell me the impact of the Ontario Heritage Act on the situation I described? I'm thinking of a particular situation in St Catharines, where the man had a building and he couldn't rent the thing right on Main Street. It was vacant about five years but they were hitting him on the tax bill just like it was still an office building.

**Mr Challinor:** I don't know the situation in St Catharines.

**Mr Sheehan:** I'm just giving that by way of reference.

**Mr Challinor:** Unless that building or that district was designated by the province of Ontario in law, and legal counsel can certainly confirm this, then there is no problem with his coming forth to the city of St Catharines for a demolition permit, receiving it and knocking the building down.

However, as part of the municipal process of approving a demolition permit, it will be circulated through the

various departments within that municipality, and you may hear from the LACAC committee because they may have a concern. However, unless the building is designated, there is no authority to hold that owner up in terms of his knocking the building down.

**Mr Sergio:** I just want to make a comment that the people who have left were all against your bill, so you're lucky that it's coming out now.

**The Vice-Chair:** Seeing no further questions, are the committee members prepared to vote on this matter?

Shall sections 1 to 10 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Thank you very much for your presentation today, gentlemen. We certainly appreciate your time.

**Mr Challinor:** Thank you, Mr Chairman. I encourage all members of the committee to come this summer and enjoy our community. It's a great part of Ontario.

**The Vice-Chair:** Just before the committee members depart, the parliamentary assistant has one additional item of business he'd like to discuss.

**Mr Shea:** Mr Chairman, a bit of housekeeping. Members will recall that a few weeks ago I did table some documentation flowing out of some questions we had and procedures and protocols. There was one we had not yet had an opportunity to report on that I will table with members today.

You may recall the application for the revival of corporation 1092404 Ontario Inc by a private bill which came before us. That was an unusual case inasmuch as the cheque was returned to the bank because the applicant's law firm had failed to sign it. In addition, the address of the registered office of the corporation, as set out in the articles of incorporation, was incomplete and the notice of opportunity to be heard was therefore returned to the company's branch by the post office.

I table with the members some further information about that unusual instance and also assure members that there will be a review to determine whether an administrative revival should be available for corporations cancelled for failure to pay the prescribed fee for incorporation, when we are considering the housekeeping amendments to the act. I will table that with members now. I'm always very pleased to respond to the directives of members of this committee and assist wherever I can.

**The Vice-Chair:** Thank you very much, Mr Shea and committee members.

*The committee adjourned at 1102.*





## CONTENTS

Wednesday 17 April 1996

<b>Association of Ontario Road Superintendents Act, 1996</b> , Bill Pr53, <i>Mr Arnott</i> . . . . .	T-77
Ted Arnott, MPP	
Gary Williamson, past president, Association of Ontario Road Superintendents	
Don Dean, chief administrative officer, Association of Ontario Road Superintendents	
<b>Association of Registered Graphic Designers of Ontario Act, 1996</b> , Bill Pr56, <i>Mrs Marland</i> . . . . .	T-80
Dave Boushy, MPP	
Albert Ng, past president, Association of Registered Graphic Designers of Ontario	
Pauline Jaworski, past president, Society of Graphic Designers of Canada, northern Ontario chapter	
Joanne Radford, accreditation adviser, Radford Game and Associates	
Chris Yaneff	
<b>Town of Milton Act, 1996</b> , Bill Pr50, <i>Mr Chudleigh</i> . . . . .	T-83
Ted Chudleigh, MPP	
John Challinor II, councillor, town of Milton	

## STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

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Wednesday 24 April 1996

## Journal des débats (Hansard)

Mercredi 24 avril 1996



**Standing committee on  
regulations and private bills**

**Comité permanent des  
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LEGISLATIVE ASSEMBLY OF ONTARIO

**STANDING COMMITTEE ON  
REGULATIONS AND PRIVATE BILLS**

Wednesday 24 April 1996

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**COMITÉ PERMANENT DES RÈGLEMENTS  
ET DES PROJETS DE LOI PRIVÉS**

Mercredi 24 avril 1996

*The committee met at 1005 in committee room 1.*

**CANADIAN LIFE LINE LIMITED ACT, 1995**

Consideration of Bill Pr39, An Act respecting Canadian Life Line Limited.

**The Chair (Mr Toby Barrett):** Good morning. I call this meeting to order. Our first order of business is consideration of Bill Pr39. All members of the committee have received a memo from legal counsel. There is an issue of procedure to deal with, and for that purpose I will briefly turn the meeting over to our clerk.

**Clerk of the Committee (Ms Lisa Freedman):** I'd just like to explain why this meeting is going to be a little different from our normal process. The standing orders provide that any application for a private bill that does not comply with the standing orders may be referred to the standing committee on the Legislative Assembly to determine whether it's a private bill. We're in a slightly different situation today. This bill was introduced and referred to this committee before there was a determination made that this is not the proper subject matter for a private bill. In essence, we were no longer at the application stage and no longer able to refer it to the standing committee on the Legislative Assembly for it to make the final determination on whether this is the proper subject matter for a private bill.

What we're going to do today is spend the first part of the meeting dealing with the procedural issue: Is this a proper subject matter for a private bill? If the committee decides it is the proper subject matter for a private bill, we will then continue in our normal way and listen to the arguments of the bill on its merits. If this committee determines that it's not the proper subject matter for a private bill, that's the end of the issue right there.

I'd also like to point out that I do have one precedent that we found, in 1984, where the standing committee on the Legislative Assembly dealt with one issue that was slightly similar to this and decided, as Susan Klein pointed out in her memo, that it not go ahead. I will be Xeroxing that. I want to point out that the vote on that bill was 6 to 4, the point being that this committee has the absolute right to vote one way or the other. There is no legal issue or necessarily right answer. It's totally up to the committee to decide whether it feels it's the proper subject matter for a private bill.

**The Chair:** I mentioned that all members of the committee received an April 18 memo from legislative counsel, and I would ask Susan Klein to briefly walk us through that memo.

**Ms Susan Klein:** The memo concludes that the subject matter of Bill Pr39, An Act respecting Canadian Life

Line Ltd, is not appropriate for private legislation. I'm going to deal briefly with the points made in that memo in support of my opinion.

Bill Pr39 provides that Canadian Life Line Ltd, a limited company incorporated in Nova Scotia, may traffic and trade in life insurance policies. The bill states that this activity is permitted despite section 115 of the Insurance Act. Section 115 of the Insurance Act makes it an offence for any person who is not an insurer under the Insurance Act to traffic and trade in life insurance policies. This offence is punishable by a maximum fine of \$100,000 on a first conviction and a maximum fine of \$200,000 on a subsequent conviction. Put simply, this bill would give the applicant the right to engage in activities that are prohibited to every other individual and corporation in the province except insurance companies.

This is an exception from the general law in favour of the applicant. On a superficial level, this is exactly what private bills are for: to create exceptions from the general law or to grant benefits not available under the general law. However, a more careful look at the bill, together with the procedural principles that govern private legislation in Ontario, shows that the bill is not really in the nature of private legislation. The bill offends three of the four principles that are considered when determining that a bill should not proceed as private legislation.

The first principle is that public policy should not be affected. In this case, it is. The Insurance Act governs all insurance matters in Ontario. The public policy, as expressed in section 115 of the Insurance Act, is that only insurers may traffic and trade in life insurance policies. There is nothing unique about this applicant to justify its being given preferential treatment contrary to this public policy.

The second principle is that a multiplicity of interests should not be involved. In this case, there are. The persons most affected by this bill are numerous, unknown and unrepresented here: the policyholders who will deal with the applicant and their beneficiaries.

The third principle is that the bill should not have as its main object a public matter. In this case, it has. The main object of the bill, as explained in the applicant's compendium, is to provide money for dying people to live on from their life insurance policies. I should point out that the bill does not limit the applicant to transactions with terminally ill persons. If the bill is passed in its present form, the applicant could conduct business with anyone in need of cash who holds a life insurance policy.

The question of how to provide terminally ill people with money to live on from their life insurance policies is a public matter. The issue was addressed in 1994 in a bulletin issued by the Ontario Insurance Commission to



life insurance companies. The bulletin set out 14 best practices to guide the industry in providing living benefits. The issue is being currently addressed by the Ontario Law Reform Commission, which is studying both living benefits and viatical settlements.

To conclude, my advice to this committee on the procedural issue is that Bill Pr39 is not in the nature of a private bill.

**The Chair:** The sponsor for this bill is MPP Monte Kwinter, and I would ask Mr Kwinter if he has any brief comments. Following that, we would ask the applicants to introduce themselves and make any comments with respect to this bill.

**Mr Monte Kwinter (Wilson Heights):** As you know, under the standing procedures in the Legislature private bills must be sponsored by a member. A constituent of mine approached me and asked if I would introduce this bill, which I am pleased to do, feeling that whether or not it was appropriate was not my decision to make but that legislative counsel could make that decision. When the applicant proceeded in the process, the legislative counsel did not say this was not an appropriate committee in which to deal with this bill, so it has gone forward. The bill has been printed and it was only after that point that I assume the Ministry of the Attorney General raised concerns, and I think it's for this committee to determine what those concerns are and their validity. I have served my constituent in the way that I felt I should. I have supported his application, but it's really up to this committee to adjudicate whether this is the proper place for it to be dealt with. That's your determination.

**The Chair:** I would ask the applicants for any comments, if they could limit their comments to this procedural issue first.

**Mr Murray Thompson:** I am Murray Thompson of the Blaney, McMurtry law firm and I have the privilege of representing Canadian Life Line Ltd. Its president is Mr Daniel Kahan. Let me point out that this matter has been in progress for quite some time and has been of some expense to the applicant in advertising before this, if I may call it, last-minute intervention.

I would refer to the memorandum that this is a procedural matter, not a legal matter, and I would compliment legislative counsel on bringing that to the attention of the committee. I would ask the committee's indulgence in that fact, because in counsel's memorandum they point out, "A private bill is a bill which, if enacted, alters the general law in relation to a particular locality, institution or individual." That, to me, is precisely why we are here on it.

I am wondering if this is not simply form. I notice in the Insurance Act of Ontario that there is regulation-making power to exempt individuals from being a licensed insurance agent in the province of Ontario. If that is a regulation-making power in that act, does it not accomplish the same thing that we are requesting the committee's indulgence upon? Perhaps the forum is different, but if it is our only remedy to appeal to the elected representatives of this province, that is why we are here.

I don't want to get into the merits of Canadian Life Line. This is simply our position at this stage, and we would be pleased to consider any form of amendment to

the bill. If one looks at 115 we could make the point that we would be deemed to be an insurer if that would make it more palatable. We would be pleased to do so, and I would also like to point out that with reference to the section which has been in the Insurance Act since 1934, there have been no prosecutions or any case law that we have been able to determine under this section.

I do not know what the word "trafficking" means, except the Oxford dictionary, which says it's buying and selling. I fear I must get into the merits of my client's case, that they do not want to buy or traffic in that sense of the word; they want to lend on the security of life insurance benefits.

**The Chair:** Thank you, Mr Thompson. Mr Kahan, did you have any procedural comments?

**Mr Daniel Kahan:** Yes. I'd like to first of all thank the committee for letting us come, at least to get as far as we have so far. I hope we get a little bit farther.

We did actually prepare quite an extensive compendium of exactly how we operate in Nova Scotia, where we do not have these problems. Nova Scotia, New Brunswick, Quebec and Saskatchewan did not put in this trafficking restriction 60 years ago. When I started looking into being able to do business in Ontario—I live in Toronto and we'd like to do business in Ontario and provide services to Ontario residents—through Monte Kwinter's good offices I was able to get into the legislative library and work my way backwards to find out when this was put in. It's a copy of the 1934 act. It wasn't section 115 in those days; it was section 76(a) where they added, "The Insurance Act is amended by adding the following section."

In 1934 there was no Hansard, so unfortunately we were unable to find out exactly what was going on, but there was a little notice, a sort of footnote, saying it was put in there because, "People who are advertising want to buy your policies." Originally, we thought people were concerned that someone might sell their insurance policy and then they would arrange for the Mafia or whoever to bump the guy off so they could get the money. Al Capone was around in those days. But I did some research. I went to the Toronto Star, I went to the Metropolitan library, and I managed to get a copy of the Toronto Star back on March 1, 1934.

Basically, what was happening was that in the Depression people were actually selling their policies. Healthy people needed money—maybe as they do nowadays as well—and they were cashing in their life insurance policies. There were companies, very similar to what H&R Block does nowadays with the tax returns, saying: "We'll give you the money straight away. You don't have to wait for a month or two months until the insurance company processes your claim and sends you the cheque. We'll give you the money today on the spot, but for a discount." Some companies were giving a 20% discount, some were even steeper. Basically, it seems there were concerns about what was going on and the government of the day decided just to outlaw the whole thing. That's where this trafficking restriction came about. It was not dealing with people who were sick, terminally ill. In those days they were dealing with people who were healthy but needed their money. It seems in those days they didn't say, "You can do it but you can only charge



a 15% discount"; they just said, "We'll ban the whole thing."

I don't have the actual act, but there is a federal act which regulates H&R Block and other similar discounting. It is tax time now; people have until April 30 to file their tax returns. You can get your money back straight away but there are certain regulations stipulating how much you can get back, I think 15% for the first \$400 and a different rate for beyond that. So there are regulations.

What we are proposing is that 60 years ago there was no Consumer Protection Act. I think the main concern of the Ontario Insurance Commission, quite rightly so, is to look after and protect the interests of the public, the consumer, but 60 years ago there was no Consumer Protection Act in Ontario. There is now an Ontario Consumer Protection Act, and we feel that if we were allowed to do business, we would be regulated by the Consumer Protection Act, we would register under the Consumer Protection Act, and we think that would give the public protection. We would disclose exactly how we operate, what sort of discounts, rates of interest we would charge, what application fees we would charge, how we would do business. This is how we actually operate in Nova Scotia.

1020

As I said, Nova Scotia does not have that section of the Insurance Act. To be able to be a money lender in Nova Scotia, we had to get a certificate of lending, which is in appendix B. It took us about eight months to get the certificate because the superintendent of loans, who happens to be also the superintendent of insurance, Mr LeBlanc, looked into exactly what we were doing and referred this to the Nova Scotia government. Again that's something which we brought up with counsel, and they told us the logistics were rather difficult, but the superintendent of loans in Nova Scotia, Mr LeBlanc, is quite happy to take a conference call from this committee and explain to them what the situation is in Nova Scotia and how the Nova Scotia government deals with us.

Basically, they have no problems with the way we're operating, and we have just recently had our loan agreement approved by the consumer protection department in Nova Scotia. Again, it took us quite a bit of time and effort, but we finally got it approved. I have just had a letter from our lawyers in Halifax confirming that the official document will be out in a few days.

Obviously, each province is different, each province can do whatever it likes, but the fact that we are allowed to operate in Nova Scotia, we are allowed to operate in Quebec—we've had discussions with Mr Boivert, the superintendent of insurance there; he's aware of what we want to do and we've been issued a money lender's licence—I think does indicate that other provinces do not have a particular concern with the way we operate. We do appreciate that there are concerns. This is a very, shall we say, emotional issue. We are dealing with people who are vulnerable and we are certainly aware that there have to be regulations.

As I said, we feel that there is sufficient regulation under the Consumer Protection Act to protect the public. However, if the Ontario Insurance Commission feels that because we are dealing with insurance policies, although

we're not actually selling insurance—we're just lending money and taking the insurance policies as collateral—they would like to regulate us, we're more than happy to be regulated by the Ontario Insurance Commission. Legal counsel for the Ontario Insurance Commission—I don't know if the committee is aware of it, but Josephine Atri is here, and we've had several meetings with Grant Swanson, who's the acting superintendent, and in the past with Lawrie Savage, who's the previous superintendent.

I should bring to the committee's attention—I don't know if they're aware—that our legal counsel, Mr Murray Thompson, was the former Ontario superintendent of insurance, so I think he's well versed in insurance matters, and also that Monte Kwinter—maybe it's the Honourable Monte Kwinter—was in a previous government the Minister of Financial Institutions, so I think he does have some understanding of insurance matters as well.

What I would like to bring to the committee's attention and put it for the record is a letter I addressed to Laura Hopkins—Susan Klein was on vacation—addressing several of the points which Susan Klein and other members of the government or the civil service have brought up. We've made copies so we can pass them around, but if I could just read it out briefly—

**Mr Derwyn Shea (High Park-Swansea):** Mr Chairman, on a point of order: I don't want to truncate the deputation's presentation, but the issue before the committee in the first instance is whether this is appropriately before the committee, and I think the deputation's counsel was trying to address that in his opening comments. It strikes me that in some ways we're beginning to move into the merits of the case and so forth before we have settled the first issue, and I'd ask you to rule in that case.

**The Chair:** Yes, the first order of business before us right now is that this committee has to decide whether to hear this bill first. It's a procedural matter, and I know there's at least one question from the committee on a procedural argument. We have to deal with that before we consider the merits of the bill. I may not have made that clear at the beginning.

Is there any final statement from the applicants? I know I have at least one question from the committee.

**Mr Kahan:** If the committee would like to read this letter, as I said, it was addressed to the legislative counsel and certainly the first paragraph does address that point. Basically it said:

"It has been agreed the standing committee should consider and decide this issue. There appears to be a considerable 'grey' area after reviewing the minutes of the Hamilton-Wentworth case in 1984."

Susan Klein gave me a copy of the Hamilton-Wentworth case, and I would like to quote from the legal counsel at the time, Mr Revell. He says, "I will use Mr Plant's own example to show what I mean." On page 4, he cites the Belfast Corporation bill. "You will see that it is decided on the facts being applied to the particular case. The Speaker finds it does refer to a public matter and that public statutes were involved," but he decides the matters that were involved just were not so numerous or so important as to necessitate the use of a public bill.

Even where you are using a precedent to support your case, you find that the language in fact goes both ways. In this particular case, I think you have to take a look at



those three matters. Basically, from what I understand—I'm not a lawyer—I think this was decided by the committee on political grounds, not on the legal grounds.

What we are trying to suggest to the committee—and we've actually brought a video. In all fairness to your constituents, some of whom may be terminally ill or once they become terminally ill may want to be able to make use of the facilities we're offering, you should actually consider the context of the bill.

We are not asking to change section 115 of the act. We say in our covering letter we feel this is something the government should be doing; the Ontario Law Reform Commission is looking at this. For the record, I went to see Barbara Hendrickson, the counsel, on Friday afternoon as soon as I became aware they were looking at it. She told me they have been looking at it since the fall of last year, they may come up with a report by next year, and it's possible the government may consider doing something or may just file it. Whether that is a useful use of taxpayers' money I don't know.

But the point I'd like to make to this committee, and that's why we're here, is that we're dealing with people who are terminally ill. The people who are terminally ill at the moment will not be around in six months' time or 12 months' time to be able to get these loans. If their insurance companies are not prepared to give them the loans at the moment, the only recourse they have at the moment is to go outside Ontario and to sell their policies to American viatical companies south of the border.

**The Chair:** Thank you, Mr Kahan. Ever bearing in mind that we are discussing procedural issues, whether we should consider this bill as a private bill, I have a question from Mr Bisson.

**Mr Gilles Bisson (Cochrane South):** To leg counsel in regard to the three points that go into the decision whether a bill can come before the committee, the third point I didn't quite catch. I understand what you're getting at with the first and second, but could you go through again the third point you raised?

**Ms Klein:** That's dealing with a public matter?

**Mr Bisson:** The first one was that public policy should not be affected. The second one was that a multiplicity of interests should not be involved. The third point I didn't catch.

**Ms Klein:** The third principle is that the bill should not have as its main object a public matter. My argument is that what this bill is about is providing money to terminally ill people for them to live on from their life insurance policies, and that the question of how to provide dying people with money from life insurance policies is a public question.

**Mrs Sandra Pupatello (Windsor-Sandwich):** I have a question perhaps to legal counsel or the PA to the minister.

Should we go forward today and address the bill, and let's say we were to vote in favour of it, where would it go from there if in fact we find it wasn't appropriate to have gone through this committee? What is the procedure if we were to go ahead and address the issue?

**The Chair:** I'd ask the clerk to respond to that.

**Clerk of the Committee:** Actually, I can answer that. It's totally within the purview of this committee. If this committee decides this is the proper subject matter for a

private bill, then it is the proper subject matter for a private bill. If they then go ahead and pass the bill, there wouldn't be any retroactive question about, was this committee right or wrong? It's totally within the purview of this committee to decide that first question.

1030

**Mr Bisson:** If that's the case, we would be in a situation where if we allowed this to go to committee and we were to decide to pass this bill, we'd be contravening other acts that are the property of the province through the Legislature. Where does that leave us?

**Mr Shea:** That's why we're here to look at procedures first.

**The Chair:** Is that a question directed to—

**Mr Bisson:** I'm asking leg counsel.

**Ms Klein:** It doesn't create a conflict with the act. It creates an exception. It says: Everybody else in Ontario, this is the law for you. Canadian Life Line, this is the law for you.

**The Chair:** Before I go to the next question, the applicant has indicated—is that a response to a question?

**Mr Stephen Bingham:** No, it's a supplementary question. I'm Stephen Bingham from Veritas Communications. I'm communications counsel to Dan Kahan and Canadian Life Line. I just wanted to ask a question. Could the committee or the clerk clarify the criteria by which one decides a public or a private issue is at hand? I heard the three principles mentioned and there seemed to be a lot of grey area there that's left unspecified. I wonder if we could clarify that further.

**The Chair:** I think that question would be directed to legislative counsel.

**Ms Klein:** It's a procedural decision for the committee of the assembly to make. We have literature on it that sets out four principles. I haven't mentioned the fourth principle, because I don't think it applies here. The committee is on its own to decide the matter.

**Mr Bingham:** As a supplementary comment, it seems to me that if you're going to decide it's a public or private issue, that really tends to rest on the merits of the case, does it not, and on public policy in Ontario?

**Ms Klein:** I think there is a procedural issue and there's a policy issue, and there's a context for the procedural issue but it's a separate issue.

**Mr John O'Toole (Durham East):** More or less dealing with the procedural aspect of it, if I might just refer people to the memo of April 23, distributed by the clerk, directed to the Chair from Dina Palozzi, Deputy Minister of Finance.

Things have changed since the original act; I'm certain of that. And is it not correct, in the last paragraph, page 2, that it's sort of being looked at now and that this may not be the appropriate time, the appropriate place for this kind of decision, that is for the content of the private bill, to be looked at and examined? Certainly not at this committee.

That's to you, is it?

**Ms Klein:** Yes.

**Mr O'Toole:** I'm referring to the memo dated April 23 from Dina Palozzi, deputy minister, last paragraph, page 2. It says that they really are looking at access to policies, the whole issue, under the current act, and that's probably the way this should be done, as opposed to what



constitutes an amendment to a section here, an exemption.

**Ms Klein:** Or a particular privilege.

**Mr O'Toole:** I'm not trying to deal with the exemption or privilege issue. I think it's the appropriate place. Right now it's being dealt with. Would you agree that that's the right place for it to be—

**Ms Klein:** I agree that it's a public issue and the right place to deal with it is in the public forum.

**The Chair:** I would ask the clerk, any further comments on that?

**Clerk of the Committee:** Just with respect to the question where the right place is, I again want to stress, without taking any position, that this committee does have the absolute authority to decide that this is the right place. It may be that there may be a better place or whatever, but in terms of a right place, there isn't a right or wrong in this issue. It's whatever the committee ultimately decides.

**Mr O'Toole:** I just want to respond to that. I'm sympathetic to the issue, the underlying issue. The priority decision as to where it's best dealt with, we have information here to tell us that, but I'm sympathetic to this being an important issue today.

**Mr Frank Sheehan (Lincoln):** I have a question and I'm trying to get my mind around some of these things. The matter of recovering from a life insurance contract, as far as I'm concerned, having been in the insurance business, is a business deal. There are set regulations governing that. Apparently, not everyone in the life insurance business is prepared to make these viatical settlements and this company is offering the public an additional vehicle to obtain access to moneys that belong to them.

I really would like to support the people, but I am concerned about—and maybe you can help me out. I'm having a problem, being a free-enterpriser, what the government's got to do with this thing: "I made a contract with an insurance company to buy some life insurance and there's an estoppelment here somewhere and I don't know why it's there."

**Ms Klein:** It's largely a policy question that you're asking, and all I can speak to is the procedural concern, but I guess if I can put it one way, it's that we have a public policy on the issue that says insurance companies can do this kind of transaction; non-insurers cannot. If this bill were passed, the result would be that no one in Ontario would be allowed to do this business except this one particular company, and the question is, do we make this kind of decision on the basis of one company?

**Mr Sheehan:** Why does it limit that only this company can do this?

**Ms Klein:** That's what this bill does; it's an application for an exception for this company.

**The Chair:** Before I go to the next order on the roster, which is Mrs Papatello, Mr Thompson, did you have a comment?

**Mr Thompson:** I just wanted to say and to emphasize the fact that anybody who wants to go into competition, should Canadian Life Line be so favoured, would have the benefit of appearing before this committee and making their case, so there is no absolute bar.

**Mrs Papatello:** I think, from the information we're getting, all of us would like to get into the issue in terms of the content, because I do have questions about it but I think there is some level of support in its content. However, if it doesn't go to this committee because we find that it's inappropriate in allowing permission to one particular company and not the rest in terms of giving this company an exception, how quickly would it move through in the discussions? Mr Kahan was mentioning that it could be a year away, that there is a report being written. Are you aware of a time frame or any quicker way to move it through the appropriate procedure if it's not this committee?

**The Chair:** Did you hear all of that question?

**Ms Klein:** I don't think I can answer how long it takes a government or a private member to introduce and pass a public bill, if that's the question.

**Mrs Papatello:** Assume we don't deal with this today. Where is it going to go? Perhaps the minister's assistant has a thought on how he would address the issue. If it doesn't belong here, how will you be addressing this issue?

**The Chair:** I'll ask the clerk first.

**Clerk of the Committee:** I can address that procedurally. If this committee decides this is not the proper subject matter for a private bill, this private bill goes nowhere, in essence. It's going to stay referred to this committee but the committee will not deal with it again, and that will be the end of that matter for the private bill. What the other options are, I think as Susan said, whether a private member wishes to introduce something as a private member's bill to amend the Insurance Act or whether the government goes ahead and changes its policy is in the normal course of things.

**Mrs Papatello:** That would be the comments from the parliamentary assistant, then?

**Mr Shea:** I would echo that, but I would also say that at that point the applicant might very well want to confer with Mr Kwinter and approach the appropriate ministry that may indeed be reviewing this in a broader sense and might wish to make application for a general consideration.

**Mrs Papatello:** So we don't know at this point which ministry, where it would go. I just assumed it would be something dealing with financial institutions, either consumer and commercial relations—

**Mr Shea:** I think the question is whether it's appropriately before consumer and commercial or whether it's before the Ministry of Finance. I would suspect the Ministry of Finance. The parliamentary assistant for the minister is with us. We certainly have a letter from the ministry, from the deputy minister, which is a very powerful memo. It would strike me, in reading that, that the ministry has more than a passing interest in this issue in a very general way as well as specifically.

**The Chair:** Mr Sampson is on the roster, but I will continue in order with committee members at this point. We have heard the position from the applicants. Mr Bisson?

1040

**Mr Bisson:** I would like to move a motion, but just prior to that I would make the suggestion that really this



matter could be dealt with as a private member's bill if a member wants to sponsor it in order to be able to deal with the issue, because I think there's a product that is needed on the part of some people in this province, if the applicants would want to approach one of the members and move it as a private member's bill in order to make the amendments to the various acts that need to be made. With that in mind, I would move that this Bill Pr39 is not a private bill.

**The Chair:** This motion is debatable, and what I will do is continue with the roster of committee members I have listed here.

**Mr Bisson:** The motion is basically saying that this is not a private bill to be dealt with by this committee.

**The Chair:** We've all heard the motion, and I will continue with this roster. Mr Smith.

**Mr Bruce Smith (Middlesex):** Just as a follow-up to Mr Bisson's comments, I would have to concur with his opinion. We've had the comments from legislative counsel and the concerns with respect to the three principles that have been addressed by counsel. Although I won't speak for my colleagues Messrs O'Toole and Sheehan, I think there's a genuine concern about proceeding with the bill in advance of a more comprehensive look at the issue. Point well taken, to my colleague opposite, about the opportunity to pursue it in a different format. I would concur with that as well and certainly support his motion as presented.

**Mr Rob Sampson (Mississauga West):** I think we're now in the process of debating the motion as it relates to not the merits of the bill, but whether it is in order, so I'll try to restrict my comments to that.

I would have to support, if I were a voting member of this committee, that particular motion. However, I would like to suggest that I believe it would be within the authority of this committee to suggest to the Minister of Finance that this issue be reviewed as a public policy issue in the course of the review of other financial institutions matters, including life insurance. That may well expedite some of the review that's currently being undertaken by the ministry in this regard for this particular product.

I am sympathetic, but it doesn't help the deputants in regard to their issue currently. But in the face of the fact that I think this is a public policy issue, frankly, that needs full consideration by a number of ministries, inclusive of finance, it should be dealt with in the traditional format for those type of bills, of which this is not the traditional format. I think, Mr Chairman, that's the extent of my discussion on that.

**Mr Shea:** I'd be very pleased to embrace the essence of Mr Sampson's recommendation in amendment to Mr Bisson's motion, which I am very pleased to support as well. I'm always pleased when I can support a motion by Mr Bisson.

**Mr Bisson:** Vote for the one on rent control, then.

**Mr Shea:** I will watch Mr Bisson on that one very carefully.

In terms of the issue before us, the procedural issue, may I first of all say that in my opinion Mr Kwinter is to be complimented. He has brought forward this application in an appropriate fashion and he has discharged his responsibilities as a representative very diligently and is

to be complimented for it. Indeed, in his presentation, as I read between the lines, and I have known the honourable member for many years, he obviously reflected the agony of the discussion before us: Is this appropriately before us or not? So I appreciated that as well. I think many of us have the same sense that this applicant is trying to move in some new directions, but it has to proceed in an orderly fashion.

The merits of the case, in my opinion, are more appropriately argued in another setting, one that deals with an industry review in general. For that reason, my amendment asks the Minister of Finance to give consideration to this as part of an overall industry review that may or may not be taking place specifically at this time. But above all, in terms of the merit of this issue being before this committee, I think legislative counsel has made a very powerful presentation for us that it is a public issue. We have had three points outlined for us very clearly why this matter should not be placed before us, and I concur totally with that.

As you take a look also at the memo that we have received from the deputy minister of revenue and financial institutions, the Ministry of Finance, certainly in that memo the last paragraph on page 1 and the first paragraph on page 2 make the point very clear, again, that this matter is appropriately launched in some other jurisdiction. And the memo from the Ministry of the Attorney General, the last paragraph on the first page, also makes it very clear that this is a significant issue that transcends the appropriate jurisdiction of private bills.

For that reason, I do support the motion put forward by Mr Bisson and I hope that likewise members will support the amendment that I have placed to his as well.

**The Chair:** This committee has a motion before it, Mr Bisson's motion that this bill is not proper subject matter for a private bill, which means it is not proper subject matter for this committee. All in favour of—

**Mr Kahan:** Can I say something before you vote?

**Mr Shea:** No, it's before the committee.

**The Chair:** This is before the committee at this point.

**Mr Kahan:** Once you vote and you vote no, then I can't say anything.

**The Chair:** Again, this is addressed just to the committee.

All in favour of Mr Bisson's motion? A show of hands. All opposed? We declare unanimous consent for Mr Bisson's motion.

**Mr Shea:** My motion was a separate motion.

**The Chair:** Would you perhaps summarize or repeat the second motion?

**Mr Shea:** I think the clerk will pick that up, the motion. It was the sentiment expressed by Mr Sampson that this matter be also brought to the attention of the Minister of Finance and that it be brought to his attention that this should be the subject of review. If it is not ongoing, it should be considered by the ministry.

**The Chair:** All in favour of Mr Shea's motion? A show of hands. Opposed? I declare that motion passed unanimously.

Is there any other business? I declare this meeting adjourned.

*The committee adjourned at 1047.*











## CONTENTS

Wednesday 24 April 1996

<b>Canadian Life Line Limited Act, 1995</b> Bill Pr39, <i>Mr Kwinter</i> .....	T-85
Monte Kwinter, MPP	
Murray Thompson, solicitor, Blaney, McMurtry, Stapells, Friedman	
Daniel Kahan, president, Canadian Life Line Ltd	
Stephen Bingham, senior associate, Veritas Communications Inc	

## STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

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  - Sergio, Mario (Yorkview L)
- \*Shea, Derwyn (High Park-Swansea PC); parliamentary assistant to the Minister of Municipal Affairs and Housing
- \*Sheehan, Frank (Lincoln PC)
- \*Smith, Bruce (Middlesex PC)

*\*In attendance / présents*

**Also taking part / Autres participants et participantes:**

Sampson, Rob (Mississauga West / -Ouest PC); parliamentary assistant to the Minister of Finance

**Clerk / Greffière:** Lisa Freedman

**Staff / Personnel:** Susan Klein, legislative counsel

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Première session, 36<sup>e</sup> législature

# Official Report of Debates (Hansard)

Wednesday 1 May 1996

# Journal des débats (Hansard)

Mercredi 1<sup>er</sup> mai 1996

**Standing committee on  
regulations and private bills**

**Comité permanent des  
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LEGISLATIVE ASSEMBLY OF ONTARIO  
STANDING COMMITTEE ON  
REGULATIONS AND PRIVATE BILLS

Wednesday 1 May 1996

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO  
COMITÉ PERMANENT DES RÈGLEMENTS  
ET DES PROJETS DE LOI PRIVÉS

Mercredi 1<sup>er</sup> mai 1996

*The committee met at 1002 in committee room 1.*

ANGLO CANADA GENERAL INSURANCE  
COMPANY ACT, 1996

Consideration of Bill Pr45, An Act respecting Anglo Canada General Insurance Company.

**The Chair (Mr Toby Barrett):** Good morning and welcome. Our first order of business is Bill Pr45. This bill is sponsored by MPP Bob Wood and I'd ask him to make a few comments.

**Mr Bob Wood (London South):** Perhaps what I might do is introduce Mr Palmay, who is the lawyer for the company, and Mr Fung, who is representing the company. These gentlemen are available, of course, to answer any questions committee members may have.

This bill is required because the company is an insurance company. I don't want to give a lengthy explanation of corporate law to the committee, but it boils down to that most companies would not have to do this because the Business Corporations Act permits you to do it under the Business Corporations Act. A few companies are still governed by the old Corporations Act, which dates back many years; and insurance companies are. If they want to transfer jurisdiction, they have to do it by act of the Legislature. As far as I know, there are no objections to this. It's basically a technical type of act.

Perhaps we could open the floor to any questions committee members may have. We'd be pleased to try and answer questions.

**The Chair:** All right. I wondered if Mr Palmay or Mr Fung had any comments.

**Mr Frank Palmay:** We don't. We'd be delighted to answer any questions you might have.

**The Chair:** Are there any other interested parties today? Seeing none, before we go to questions from committee members, I would ask the parliamentary assistant to the Minister of Municipal Affairs for any comments from the government.

**Mr Derwyn Shea (High Park-Swansea):** Mr Wood has rightly put the case, very succinctly and in a helpful fashion. This is a common legal procedure, appropriately handled, at least at this time, by private legislation. There is no objection by the government.

**The Chair:** I would now call for questions from committee members to either the applicants or the parliamentary assistant.

**Mr Tony Ruprecht (Parkdale):** I just wanted to make a short comment, and that is that I trust the MPP from London. He's looked at this. I've heard the comments made by the parliamentary assistant. That's good enough for me. I certainly support this bill.

**Mr Gilles Pouliot (Lake Nipigon):** A leap of faith, this official recognition for the duke of Dublin. I echo the sentiment, but not with the same fervour. Thank you for your presence. This is the kind of bill—and it would have been our loss if we had not had the opportunity to meet you, to exchange greetings—which is matter of fact. Thank you for taking the time to bring it to our attention, and of course we will readily acquiesce. There's nothing to indicate any opposition to it. Thank you, Mr Shea.

**Mr Shea:** Those were gracious words from the nabob of Nipigon.

**Mr E.J. Douglas Rollins (Quinte):** It's surprising what one day in the sun does.

**The Chair:** Are there any other questions or comments from members of this committee? Are the members of this committee ready to vote with respect to Bill Pr45?

In keeping with the procedure we follow where we collapse several sections together to vote, shall sections 1 through 5 carry? Carried.

Shall the preamble to this bill carry? Carried.

Shall the title carry? Carried.

Shall this bill carry? Carried.

Shall I report this bill to the House? Agreed.

I now declare that order of business closed.

**Mr Bob Wood:** I wonder if I might, before we depart, thank all members of the committee for very expeditious consideration of this bill. We appreciate your efficiency and also, because of my time considerations, putting the matter first on the agenda.

**Mr Palmay:** We second that motion.

1010

CITY OF BRANTFORD ACT, 1996

Consideration of Bill Pr60, An Act respecting the City of Brantford.

**The Chair:** Our next order of business is Bill Pr60. I would ask MPP Ron Johnson, the sponsor, for any comments.

**Mr Ron Johnson (Brantford):** This particular bill being put forward to the committee gives the municipality, much like a number of other communities, a little more flexibility with respect to how they treat heritage buildings. It would require a particular property owner, somebody who does own a heritage property, to require a building permit before a demolition permit is issued to tear that particular piece of property down.

I'll let the city staff of Brantford introduce themselves and give you their particular view of the impact this bill will have.

**Mr Doug Wilson:** I'm Doug Wilson, city solicitor for the city of Brantford. With me representing the city today



are Peter Atcheson, the head of the planning department for the city of Brantford, and Matt Reniers, who is a senior planner with particular responsibility for heritage matters.

As Mr Johnson ably outlined, the purpose of this bill is to add a little more authority to the city's arsenal in heritage matters and to ensure that heritage buildings which are considered significant are not simply torn down and left as vacant lots.

I understand there is a letter from an objector before the committee. The objector in question, the property of which he's the owner—the solicitor represents the owner—was the impetus for this bill, but this is a bill of general application and would apply to all heritage and heritage district properties within the city. I would point out that the property in question owned by this objector was designated in 1991, and the OMB approved the designation in 1993. The property owner in question acquired the property in 1995, knowing this was heritage property.

Other than that, we're here to answer any questions the committee may have and thank you for your attention.

**The Chair:** Any other comments from the other applicants?

**Mr Peter Atcheson:** No, we're here to answer questions.

**The Chair:** Mr Pouliot, I might go the parliamentary assistant first and then we'll go to the committee.

**Mr Pouliot:** I'm seeking clarity.

**The Chair:** Are there any other interested parties? Seeing none, I would ask the parliamentary assistant for municipal affairs.

**Mr Shea:** We've been through these waters before in this committee and elsewhere many times and we've asked questions. As you know, I tabled with us a few weeks ago some responses from the Ministry of Citizenship, Culture and Recreation. There is some general legislation pending, but it's not here yet. It is appropriate that we proceed on this; there is no government objection to it. There are precedents, I remind us again, of places like Toronto and Hamilton and Scarborough and Milton. We've dealt with some of them at this committee. Mr Johnson has appropriately brought this before the committee and the government has no objections.

**Mr Pouliot:** I'm seeking clarity. I need your help. Formerly the Park Baptist Church, obviously a place of worship, the property, the building is now owned by Jackpots Unlimited Inc. I don't imagine they're Bible printers. What does Jackpots Unlimited do?

**Mr Wilson:** They own some other properties within the city where they have office uses and some commercial uses. In particular, they own a property which is about a block away from this particular property and which is in need of some parking, in their opinion.

**Mr Pouliot:** The restoration, if not the demolition—I see the interior has been significantly altered, has been gutted.

**Mr Wilson:** What happened was that all the pews were taken out, the organ was taken out, but as to being gutted, it's not particularly gutted. It's the façade that is of interest to the city. Actually, maybe we could show you the property. We've got a picture of it and the

district in which it is, because we knew it was an issue. This property is one of the properties surrounding the major downtown park. This whole area is designated as a heritage district because it's important that the whole appearance of that area be maintained. Taking a big hole out of it would significantly affect the heritage district.

**Mr Ron Johnson:** A little further with Mr Pouliot's comments: You have to understand the importance of this particular building with respect to our downtown core, a downtown core which already has started to deteriorate in areas. This is a very nice part of town and it's something the entire community is very proud of. There's a great deal of concern out there that this particular building will be demolished for a parking lot. That seems to be at least the apparent intent of the owner. The bill, of course, deals on a much broader range, but this was the impetus for that.

**Mr Pouliot:** You do understand my inclination as a former Minister of Transportation to pave.

**Mr Mario Sergio (Yorkview):** Clarifying, have you had any contact with Mr David Clement? Have you met with him? Did you speak to him?

**Mr Ron Johnson:** Yes, I have. I have had a meeting with the property owner and the lawyer.

**Mr Sergio:** And you're satisfied?

**Mr Ron Johnson:** I am perfectly satisfied that this bill is in keeping with being responsible to my community.

**Mr John O'Toole (Durham East):** Are there any other alternative agreements that can be reached; ie, the zoning designation of the building? Is that an issue where that can be dealt with or changed to allow some incorporated uses?

**Mr Wilson:** Certainly incorporated uses could be allowed. The problem at the moment is that the property owner is adamant that he's not prepared to negotiate any kind of preservation of the façade.

**Mr O'Toole:** Even if it's just the façade of the building?

**Mr Wilson:** That's correct.

**Mr O'Toole:** Is the whole building designated or is it the exterior only?

**Mr Wilson:** It's the exterior.

**Mr O'Toole:** So there's nothing to disallow him or her from dealing with another use, which would be a rezoning issue?

**Mr Wilson:** No. In fact, this bylaw contemplates that as long as they have an alternative use and are putting up a building, not leaving gaps in the toothwork sort of thing, that's perfectly allowed. We couldn't prevent his demolition of this building were he to have an alternative development plan for the site.

**Mr O'Toole:** When I was a councillor, I sat for awhile on a LACAC, a local architectural conservation advisory committee, so I have some knowledge. One of the aversions to designation is this very issue that the end control of their building is given away. Does this recognize that dilemma we're in? We're having people designate the property, and now that there are no grants, what's the advantage? Do you know what I mean?

**Mr Wilson:** Yes. The city of Brantford's policy on designations has been not to designate over the objection of the owner at the time designation is made. We have



never designated property where the owner has objected. Whether or not that's a good policy from a heritage preservation point of view is an issue, I suppose, but it's certainly been the policy we have followed to date.

**Mr O'Toole:** That's important. Usually it's the applicant's initiative, unless you have a heritage district like you have where you may want to complete the whole façade.

Is there anything to alert a prospective buyer of a designated property as to this bylaw, so that upon purchasing they recognize that the building will never have changed whatever's been designated, the roof or the spire, or whatever's been designated? Is that clear on the title?

**Mr Wilson:** Yes, it is. Not in a heritage district.

**Mr Atcheson:** Not in a heritage district, but it would be clear on all individual properties that are designated. There's a registration on title as to the elements that have been designated.

1020

**Mr O'Toole:** This is a case where the buyer was aware that it was designated and that that entailed making application for demolition, which you've denied? He was aware of that procedure going into the thing in 1995?

**Mr Atcheson:** Yes, this particular district, as Mr Wilson indicated, was approved by council in 1991 and confirmed by the Ontario Municipal Board in 1993. The present owner subsequently acquired it, in 1995. It was a well-known district.

**The Chair:** Are the members ready to vote? We're voting on Bill Pr60.

Again, collapsing sections, shall sections 1 through 10 of this bill carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

**Mr O'Toole:** I want to ask one question before we finally conclude. Is there any other appeal process, like the OMB? Could the OMB overturn this?

**Mr Atcheson:** There's an appeal to the OMB in the bill. After the building had been removed and the applicant could not build what he said he was going to build to secure the permit, and council failed to give him an extension, there's an appeal on that issue to the Ontario Municipal Board in the legislation.

**Mr O'Toole:** Thank you for your indulgence. Currently the company doesn't have the permit, right? Theoretically, an accident could happen, a bulldozer could run into it and knock it down. The building is still in place. What if he was to proceed illegally?

**Mr Wilson:** He would be subject to fines under the bill.

**Mr O'Toole:** Okay, but the building's gone.

**Mr Wilson:** That's right.

**Mr O'Toole:** Theoretically, with this current bill that we're passing, can he still appeal to the OMB?

**Mr Wilson:** It doesn't change his appeal rights under the existing legislation. All this does is require him to have a building permit application. If we refuse an application, he has a right to appeal.

**Mr O'Toole:** That's good. Thank you very much. There is an appeal process.

**The Chair:** If you have any further questions, you may want to chat afterwards. I wish to thank the applicants. I think the photographs were useful as well. I now declare this order of business closed.

## COMMITTEE BUSINESS

**Mr Dave Boushy (Sarnia):** Can I bring up some other business?

**The Chair:** Yes, I'm asking for any new business.

**Mr Boushy:** For almost a year now, the city I represent, Sarnia, has been trying to apply for a private bill to defer seniors' taxes, part of the taxes, similar to private bills in Hamilton and other cities. But due to downsizing in the administration, there has been a delay for almost a year. By the time they get here, it's going to cost them up to \$1,000. This has been the case in every city. When the private bill gets here, I'm sure it'll be approved; it'll be just a matter of a few minutes before it's approved.

The reason I bring this matter up is that I think we're exposing a lot of municipalities to a lot of unneeded costs when we know those private bills are going to be approved. I would like the administration to review those applications that have been approved, probably about a dozen of them in Ontario, half a dozen, whatever, and come back with a recommendation to this committee whether general legislation can be passed by the House giving municipalities the option to do that, their recommendation in that area.

**The Chair:** Is there anything that can be added to this?

**Mr Boushy:** I might add that this does not have anything to do with the city of Sarnia. The private bill in Sarnia could arrive any time now. I'm thinking of province-wide benefits rather than just one city. I gave you an example in the city of Sarnia.

**Mr O'Toole:** I'd be interested in making a comment. I thank the member for Sarnia. I think it's an excellent idea. What would the parliamentary assistant say to amendments to the Municipal Act or Planning Act, or the clerk for that matter? I'd appreciate a report on that too, very expeditious, very responsive to municipalities. They still make the decision themselves.

**Mr Boushy:** I think the Red-Tape Review Commission would probably look favourably at that.

**The Chair:** Does anyone have a comment on this? I don't at this point.

**Clerk of the Committee (Ms Lisa Freedman):** I'd like to clarify a couple of things in my mind from what you're requesting. If that's what the committee wants, part of that report would have to come from municipal affairs in terms of whether it can amend its legislation to deal with these. The other parts are going to be strictly standing order. Anybody will still have the right under the existing standing orders, and our process and the amount of money that kick in will still kick in. I can look at that for this committee and explain what the cost is, whether there is any other way to deal with private bills. But the other part would probably have to come from municipal affairs in terms of whether its changes to the public acts can deal with some of these private bills.



**Mr O'Toole:** One more comment: I think what I heard him saying was that we had the two or three cases we've dealt with allowing municipalities to forgo the tax in place of a lien. I'd be interested in knowing that and, further, that the parliamentary assistant pursue what amendments to the Planning Act and Municipal Act would be necessary, if that's not out of order.

**Mr Shea:** When I began my comments—I don't know if members didn't hear or if I didn't say it clearly enough, but the ministry is reviewing the legislation. It may or may not be part of an overall review of the assessment issue that may flow out of the GTA study. It's a question of how it comes forward. I share the concern that there are a number of private bills that come forward that we may be able to wrap up into a legislative reform that might conclude that, and it might be of some saving for municipalities.

I don't want to mislead the committee. That will not happen in the next week or the next month. I think we've all been around long enough to know how long it takes for legislation to be complete, but there is consideration given to it. I certainly support it, I know the minister certainly would have no objections to it, but it requires time to make sure there are no unforeseen hidden valleys in all of that.

I'm glad the member has raised the question. If we could simply leave it as notice, leave it that way, I will proceed through the normal course of events within the ministry to see if we can find ways to clean that up, as I think we will probably want to do with a number of other pieces of legislation that come before this committee from time to time. We may see a trend of certain pieces of legislation. Where we can facilitate the handling of that legislation, we should do so.

**Mr John Hastings (Etobicoke-Rexdale):** Is there any way we could get from the clerk's office a list of subject matter forthcoming in the next few weeks or months and how long some of the stuff's been in the hopper? I can think of one specific bill that I'm interested in, but I'm not going to mention it; I'm just wondering how many others from the private sector or from municipalities.

My second question is: If some of that stuff's ready, can we sit as a committee one time in the summer or late summer to clear up some of this stuff, if that's possible? Or do the standing orders prevent us from doing it?

**The Chair:** We have a list, but there's no priority order on this list. I'll ask the clerk to respond.

**Clerk of the Committee:** At this point I had just mentioned to the Chair that we're not meeting next week because we don't have bills that are ready at this stage. There are probably 40 or 50 bills in my file at various stages of being ready. I could tell you where they are. A number of them are on hold because the applicant is going back to negotiate with the ministries or is dealing with Legislative counsel, or the advertising hasn't been finished. From my office's point of view, everything that is ready, where I have a bill, I'm attempting to get introduced so it can get to this committee. I can give you a list of what's coming up. I can give you a list of the status of what all these bills are missing or where the holdup is.

This committee does have the authority, if it requests, to meet in the summer. If there were bills backed up, that would be something that we would recommend towards the end of June, if we didn't think we were going to manage to finish all our bills before the end of June. What I can tell that's coming up are a number of city of Toronto bills that are quite contentious that will take a few weeks to do.

One thing that happens, though, if we meet in the summer is that the bills still can't go forward for second and third reading until the House comes back, which is often why this committee isn't granted the power to sit in the summer, because it doesn't speed up the process particularly for the applicant. They still have to wait for the House to come back for second and third reading and royal assent.

**Mr Hastings:** Other than those bills, Lisa, that are dealing with the city of Toronto, are there any other bills that could come on the order paper at about the same time one of those—I know of a couple you're talking about. Is there anybody who can get caught in the crunch here who will be just about to have their bill ready and they'll end up not getting it heard? Or can we move it to the front of the city of Toronto bills? If there's one or two that are not—like the one we had from that company in Ottawa that we had the teleconferencing on.

**Clerk of the Committee:** What we try to do, just to give you a little bit of background, is that probably two or three times a week Linda Gray, Susan Klein and I speak on the phone. We keep running through the list to find out where everybody is in terms of the readiness for bills. When we schedule, we try to put the contentious ones on one day and then have another day where there are no objectors on the bills, and you'll find four or five on that day to clear them through.

What we've done in the past as we've gotten towards the end of June is we've asked for extra sitting days before the House is finished, an extra afternoon or an extra morning, to clear everything out. But what we try to do is we keep looking every week, all three of us, to make sure nothing really gets lost in the hopper.

Then again, if there are some contentious bills and some not, I do tend to go first come, first served. If a non-contentious is in first and ready to go, all attempts are made to schedule it first.

**Mr Hastings:** This committee has no authority to request that bills that are ready, they get them up and in to us as soon as possible? We have no authority to even make a request, I guess.

**Clerk of the Committee:** The short answer to that is that the bill belongs to the applicant, and as soon as the applicant tells me it's ready, then it's ready, which is from their point of view. One of the slowdowns in the system is that I then have to go to the sponsor and get the sponsor to agree to introduce it in the House. In some cases there's been a delay in getting the sponsor. If they can't introduce it, we can't get it on the order paper and we can't consider it. There's been a slight slowdown from that part of the system.

**Mr Hastings:** Sounds like Queen's Park.

**The Chair:** Mr Pouliot?

**Mr Pouliot:** The clerk has answered the question I had. It had to do with process.

**Clerk of the Committee:** I keep an outstanding list of every single bill that's in my file with checkmarks on whether they have complied with the standing orders, and if it's on hold, the reason. I'm quite prepared to send out that list to the committee members this week. If they

have any questions on any specific bills, they can look at the list and give me a call.

**The Chair:** If there is no emergency business, this committee, as has been indicated, will meet in two weeks. I declare this meeting adjourned.

*The committee adjourned at 1034.*



## CONTENTS

Wednesday 1 May 1996

<b>Anglo Canada General Insurance Company Act, 1996</b> , Bill Pr45, <i>Mr Bob Wood</i> . . . . .	T-91
Bob Wood, MPP	
Frank Palmay, counsel, Lang Michener	
<b>City of Brantford Act, 1996</b> , Bill Pr60, <i>Mr Ron Johnson</i> . . . . .	T-91
Doug Wilson, solicitor, city of Brantford	
Peter Atcheson, director of planning, city of Brantford	
<b>Committee business</b> . . . . .	T-93

## STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

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\*O'Toole, John R. (Durham East / -Est PC)

Pettit, Trevor (Hamilton Mountain PC)

\*Pouliot, Gilles (Lake Nipigon / Lac-Nipigon ND)

\*Pupatello, Sandra (Windsor-Sandwich L)

\*Rollins, E. J. Douglas (Quinte PC)

\*Ruprecht, Tony (Parkdale L)

\*Sergio, Mario (Yorkview L)

\*Shea, Derwyn (High Park-Swansea PC); parliamentary assistant  
to the Minister of Municipal Affairs and Housing

\*Sheehan, Frank (Lincoln PC)

Smith, Bruce (Middlesex PC)

*\*In attendance / présents*

**Clerk / Greffière:** Lisa Freedman

**Staff / Personnel:** Susan Klein, legislative counsel

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Information

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of Debates  
(Hansard)**

Wednesday 15 May 1996

**Journal  
des débats  
(Hansard)**

Mercredi 15 mai 1996

**Standing committee on  
regulations and private bills**

**Comité permanent des  
règlements et des projets  
de loi privés**



Chair: Toby Barrett  
Clerk: Lisa Freedman

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LEGISLATIVE ASSEMBLY OF ONTARIO  
STANDING COMMITTEE ON  
REGULATIONS AND PRIVATE BILLS

Wednesday 15 May 1996

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO  
COMITÉ PERMANENT DES RÈGLEMENTS  
ET DES PROJETS DE LOI PRIVÉS

Mercredi 15 mai 1996

*The committee met at 1006 in committee room 1.*

COMMITTEE BUSINESS

**The Chair (Mr Toby Barrett):** Good morning. Welcome to this regular meeting of the standing committee on regulations and private bills. Everyone will have a copy of the agenda. We have three private bills slated. As well, we will be considering, time permitting, the first report on regulations in the latter part of this meeting.

As the first order of business, I would ask our clerk to briefly explain the summary sheet that's before committee members with respect to past private bills.

**Clerk of the Committee (Ms Lisa Freedman):** I was asked at the last meeting to provide a summary of all outstanding private bills and their status. What I've provided you on the long sheet in front of you is the status of all outstanding bills. I want to explain how you read it.

The first column is obviously the name of the bill. To comply with the standing orders, every applicant must do five things: pay a fee; provide a statutory declaration with respect to advertising; provide a compendium of background information; provide a draft bill; and provide the name of the sponsor. If any of these applications are missing checkmarks, it means they've yet to comply with the standing orders.

In addition, there's one category, "OBJ," which really shouldn't read that; that should read "Interested parties." That is a note to myself about whether there are other interested people who will be appearing on the bill. If you happen to note down that somebody has complied with all the standing orders, you then go to the notes column and it will either give a date that it's scheduled for committee or there will be some comment on why they complied with the standing orders but are not yet ready for either introduction or committee consideration.

LIONS FOUNDATION OF CANADA ACT, 1996

Consideration of Bill Pr58, An Act respecting the Lions Foundation of Canada.

**The Chair:** Our next order of business is to consider Bill Pr58. I would ask the applicants to approach the witness table, please. I do not think the sponsor, Gary Carr, MPP, is present. We will continue at this point without Mr Carr. I would ask the applicants to very briefly introduce themselves and then we would entertain comments on your application.

**Mrs Ann Mulvale:** In the absence of Gary Carr, maybe I can lead the delegation. My name is Ann Mulvale and I am the mayor of Oakville. On behalf of

the community and the town council, I am very grateful for this opportunity to appear before you this morning. I would introduce to you Mr Ron Brown of the Lions Foundation of Canada, and Beatrice Howell and Douglas Gates of the town of Oakville's legal department. It is our preference at this point to have Mr Brown initiate the discussion with you this morning.

**Mr Ron Brown:** I wonder if at this time, by way of information for the people hearing us, we could show you a very short video on what we are all about.

*Video presentation.*

1020

**The Chair:** Thank you for showing that video, Mr Brown. Would you have some opening comments with respect to the bill?

**Mr Ron Brown:** Yes, I do. The situation we are facing at this time I'd like to lead up to by giving you a few things that have happened to us on the way.

Originally, in 1983, this was started as a dog guide school for the blind only, and since that time we have successfully graduated 246 teams. That has happened since our first class on January 8, 1986.

In 1988, we became aware of the hearing-ear dog program in a town to the west of us. They were operating on government wage subsidies and had not made any plan to become self-sufficient. Late in 1987 their funding stopped and, through a lack of business management, they went insolvent. We chose to take over the program because we felt it was very worthwhile, and since that time we have kept all our staff in place and we have graduated 190 hearing-ear dogs.

In 1991, a further development took place and we entered into Special Skills Dogs of Canada. These dogs are trained to assist wheelchair users, epileptics and many other specific needs that come along. To date, we have graduated 56 people in that program.

In 10 short years, we have developed three programs and graduated 514 teams. This has been done with absolutely no government assistance. The only privilege we have enjoyed was the tax exemption on our property. This was spearheaded by then-Premier Davis and the honourable member from Halton, Jim Snow.

Currently, our graduate base is 70% to Ontario citizens and our funding base is provided 47% by Ontario citizens.

In 1993, we started to realize that we were lagging behind in our demand for dogs. We entered into a strategic planning program and the results showed us that our output must increase by 300%. This is to say that currently we are producing 60 to 65 teams per year combined in all the programs and by the year 2001 we need to be producing 200 teams. Expansion plans were



developed and I am pleased to say that as of February 1 a world-class facility, the only one in the world training all three programs, began operation.

Today there are two other schools in Canada, one accredited, dealing with the blind only. There is a school in the Ottawa area that graduates about 25 teams a years. It's a privately owned charitable entity itself. The other is in the east end of Montreal, does not have federal accreditation and is 75% funded by the Quebec government. I was told recently that their funding has been removed and most of their staff have been let go, so I don't know the status of that school now.

This request for reinstatement of our tax exemption is being made for many reasons. We have currently a waiting list of 142 people for dogs at this time. When our development plans are complete in the next year and a half, our full-time employment of staff will increase from today's number of 23 to 48 by 1998. This will be with no subsidies from any government.

To date, our graduates have gained mobility, independence and safety, and my best figure at this time says that 197 of the 514 have come off the welfare rolls and gone into the labour force as productive, self-sustaining taxpayers.

The cutbacks by both provincial and federal governments, which incidentally I happen to agree with but which may be too little too late, have had a whiplash effect on small charities like ours. These cutbacks have caused the likes of universities, hospitals and those types of projects that were relying very heavily on subsidies to now raid the markets of the small charities. The interest of those markets previously taking place in small charities was really our only saving grace. The introduction of video gambling will be a great boon to charities, but unfortunately for small charities, the government has named only high-profile charities as benefactors.

In closing, I wish to stress the point that our current taxes are \$42,500. With the addition we have just completed, it's anticipated that our taxes will be in the \$90,000 range. This is all taking place on a property that originally was a public school and had never been a tax-producing property. In the qualification clauses of the act, we do not qualify in one of the six sections. That section states that the exemption will only be granted on entities that are permanently funded or supported by public funds. I'm told "public funds" means government funding. I submit that if public funds are received, making tax exemption a benefit, then are we not looking at double-dipping?

This is penalizing unreasonably a charity that is producing employment, relieving welfare rolls and not asking for government funding. In cold, hard numbers, we operate under voluntary contributions. Our clients are not charged for the service we provide, but we do operate in one phase under a sponsorship setup where for a donation of \$6,000, which is tax exempt, a person, group, corporation or anybody can sponsor a blind person to receive a dog.

Ladies and gentlemen, having the tax exemption removed is really not a gain for the government, but rather, on the basis of \$6,000 per team, is denying 15 people per year from obtaining a dog, thereby having a

direct effect on employment and cutting back the potential of welfare payments being relieved.

I'm asking you to give us your consideration and consider our plea on behalf of a service we are trying to provide and do our very best without relying on government subsidies and government support.

I would at this time like to express my thanks publicly to our member, Gary Carr, who is presenting this bill; to our mayor, Ann Mulvale; and to the legal department in the town of Oakville, Doug Gates and Beatrice Howell. The interest and the sustaining support they have shown us is beyond what should normally be expected. Thank you very much for your indulgence at this time.

**1030**

**Mrs Mulvale:** I'd just like to focus on why we are here. We're not here to ask you to direct provincial money that you are the stewards of on behalf of the one constituent and the one taxpayer to this operation. We're not here to convince you of the value of the work that is done at the Lions Foundation. I think the video and the recipients speak eminently well. Also, you may have experience within your own ridings or within your own circle of friends or families of people whose lives have been empowered by the work of the Lions Foundation. We are here today, and I particularly, on behalf of the people of Oakville to ask you essentially to get a genie back in the bottle.

When the Lions Foundation came before a site plan hearing of my town to ask for expansion, we tried to find a way, if it was registered really as a school, to exempt it from development charges. In doing so, we opened a can of worms that exposed the fact that during their entire operation they had never paid municipal, regional and school taxes. The people of Oakville — and we incidentally, because of our assessment base, pay the largest share of the regional tax levy, of the board of education's tax levy, in addition to the residential taxes that fund the operation of our community — had unwittingly, but nevertheless with great joy, invested in the operation of the Lions Foundation. I have yet, ladies and gentlemen, to receive one complaint from the citizens of Oakville on the journey that we began immediately to try and find a way to put back the tax exemption status of this tremendous foundation and its work.

Potentially, this foundation provides a service to the constituents in each of your ridings. Potentially, it finds a way to lessen the dependency of people on the ministries of the province that you administer. Potentially, it provides a way for members of service clubs and people convinced of philanthropy in your riding to support and empower people to retain dignity; for some, as Ron has indicated, to return to the workforce. It is an incredible facility, one that we proudly embrace as a community. Many of the people who foster these pups are Oakville residents; overwhelmingly, they're Oakville residents.

Members of the Lions service clubs from across this province, and indeed this nation, have volunteered to make this a reality. The one word missing from that video in terms of who empowers them is "government." Yet indirectly of course the people of Oakville via their residential taxes — and yes, the people of Halton — had done just that. But again, let me stress that I've yet to



hear a complaint from the 127,000 people of Oakville who pay, because of the assessment base we have, the greatest share.

We believe, and we submit to you, that the emerging philosophy of government doing less and looking for the people to respond to the needs of their neighbours dovetails very much with the work of this foundation. I'm here today to ask on behalf of the people of Oakville that you do not demotivate the work of this foundation, that you assist the people of Oakville to continue, but now with knowledge, to support the work of this foundation that allows people to realize the potential they have following an illness, either at birth or something that has happened through diabetes or an accident. You saw and heard the people on the video.

I understand that bureaucrats have no choice. The staff of the region of Halton recommended that council not support this. The representatives of the people of Halton, by a large majority, agreed to journey with the people of Oakville and support this bill, to say: "We want to find a way to put that genie back in the bottle. We want to find a way to continue to be a positive force for the Lions Foundation as it empowers challenged people."

Ron has put it into precise figures in terms of the cost of a dog and, if they don't raise those moneys to pay the taxes that can be now collected, what that will mean in terms of fewer dogs delivered to challenged people. I am here to seek your help. Gary Carr immediately — and Gary would have spoken to that this morning — and I believe Terence Young also, our other representative in Oakville, would have articulated their experience of constituents speaking to them of their support to find a way to continue to support an agency that lessens people's dependency on government.

The people of Oakville want to continue to walk their talk by supporting this group. It is money we have never collected; it is money we have never assigned. We are prepared as a community to continue to provide this support, recognizing it empowers people far outside the boundaries of our town, our region and indeed this province. We ask you to exercise the choice you have, not to embrace the report of the bureaucrats that says, "Do not do this."

We ask you to remember this is a very special situation. It's virtually unique. It is unlikely to occur again. This group has never paid these taxes in the past. There is a wish from the community that contributes the most that they not pay those taxes. There is a buy-in from the region of Halton. There is a great deal of empathy from the school board, but they embrace the report of their bureaucrats. I don't believe, in doing so, that they polled their constituents or that they heard their constituents. They merely embraced that report.

As the mayor of the community, I believe I have heard my constituents and I'm here speaking on their behalf today and I'm asking you to find a solution to the dilemma that we, the council of Oakville, quite innocently created when we asked a question to see if we could assist the foundation.

I appeal to you to exercise the choice that continues to keep this organization not reliant on government funding and recognizing the challenging times of generating new

charitable dollars. I ask you not to take away, by not acting, their ability to fund those extra dogs rather than pay taxes to the municipality, which is saying, "We are prepared to continue to forgo them." Thank you for your time.

**The Chair:** Thank you, Mayor Mulvale. Further comments from the applicants?

**Ms Beatrice Howell:** Yes. My name is Beatrice Howell. I'm the assistant town solicitor at the town of Oakville. I just want to go through a very brief history of how this matter came before me and how I got involved in it.

In 1983, the Lions Foundation acquired the property from the town of Oakville. In 1984, they received a tax assessment and filed a notice of complaint on the basis that the Lions Foundation was a philanthropic institution and should be exempt under subsection 3(12) of the Assessment Act. The objection was accepted by the regional assessment office and a new assessment was issued exempting the property. This material can be found in appendix C of the material that we filed.

In 1993 — this is almost 10 years later — the town, as was alluded to by Mayor Mulvale, inquired into the amount of development charges payable with respect to the expansion of the facilities. At this point, the assessment office, doing an about-face, advised that the exemption could not be supported.

For 1994 the property was assessed at almost \$42,000 and for 1995 it was assessed at \$42,474. On March 30, 1994, the council of the town of Oakville directed that staff proceed to prepare this application. The Halton school board in November 1995 did not support the application. However, regional council voted to support the application for exemption in January of this year.

We believe that the case of the Lions Foundation is quite unique. Because of this mistake by the assessment office in 1983, the foundation has been exempt from taxation and has been operating on this assumption for nine or 10 years. Because of this, we are of the opinion that the subject organization does not create a dangerous precedent. Secondly, it would not create a new exemption as such. It would confirm the unique status of the organization in Oakville and in Ontario and Canada since it benefits everyone and Oakville is attempting to look beyond its parochial interests in this regard.

The key point I want to make here is that had the Lions Foundation been rejected for exemption in 1983, they would have at that time applied for special legislation and very likely they have gotten it because of the rules and the spirit towards these sorts of institutions at that time. Therefore, to deny this exemption at this time works a real injustice.

Looking at the Assessment Act and the sorts of exemptions that are available, I would like to draw your attention to the fact that the Lions Foundation seems to meet all of the criteria under paragraph 12 of section 3 of the Assessment Act except that it is not supported in part by public funds. This is the one criterion that they do not seem to meet.

1040

What must be regarded in this case is that it is in fact a good thing that the Lions Foundation is not funded by



public funds. It is something that should be encouraged rather than penalized in these times of diminishing public funds. Therefore, we would like to argue that it is not desirable to impose this criterion at this time on the foundation.

Lastly, one final point I wanted to make is that the exemption from taxation has been granted in the past to lesser organizations. This perhaps was seen by the ministries as a loophole or floodgate, which they have decided to plug up at this time of fiscal restraint. But the Lions Foundation should not be caught by this rather new net, since it is so worthy and so unique in Ontario and Canada, and has this unique history of having had the tax exemption for so long. We are requesting that the committee take a creative and sensitive approach to the Lions Foundation.

The board of education has not supported the application for exemption, and they are concerned about their diminishing income as well. However, there are just two points I would like to make here about this. First of all, the board has never had this source of income in the past from the Lions Foundation; and, secondly, the amount of the exemption, as a percentage of just the supplementary tax levies that the board will receive from Oakville alone, is 0.14%, and this is just the supplementary levies which are mostly based on growth that the board gets from the town of Oakville. So it is a drop in the bucket to the board of education, and we feel that it is not justified.

Those are all the comments I would like to make at this point.

**The Chair:** Thank you, Ms Howell. I will now ask the parliamentary assistant, municipal affairs, MPP Derwyn Shea, for comments on behalf of the government.

**Mr Derwyn Shea (High Park-Swansea):** Her worship makes an impassioned plea, and I can relate to it, certainly as a former member of Lions Club. I don't think anyone can deny the good work, the impressive work that's being done in this facility by the Lions Club.

The issue, unfortunately, goes beyond the good works, and it is one that the issue has come before this committee on more than two or three occasions during the past year, and I'd just remind us of this again in a moment, that the bill before us would exempt the Lions Foundation from property taxes so long as the land is owned and occupied by the foundation, and we understand that.

I was a little taken by the figures of 40-some-odd thousand dollars. My understanding is — and the mayor might wish to indicate if I have the wrong figures — that, indeed, with the region-wide reassessment has been reduced as something in the order of \$23,400. But whatever the figure is —

**Mrs Mulvale:** There is — you're quite right, sir — an issue of impact of regional market value, but they are not taxed yet on the expanded facility. We're trying to —

**Mr Shea:** No, that's right. I'm trying to say, with the exception of that expansion —

**Mrs Mulvale:** Yes.

**Mr Shea:** — that's the portion that's out. The town of Oakville's portion of the tax bill is about 26%, and the region's share is about 13%. That leaves the school board's share at about 61%, and that's something that the

government is more than a little conscious of. The foundation was advised that since the board did not support the request, the proposed bill should be amended to exclude the school board's taxes from the exemption, and I am of the understanding, even at this moment, that the solicitor has not agreed to amend the bill according to the government's suggestion.

You will recall, Mr Chairman, that the committee has been following a very clear protocol that argues that the body bearing the tax burden should make the decision, and indeed both the local and the regional governments have agreed to forgo their tax portions. That's good news certainly for the Lions Foundation, but the education boards have not agreed to forgo theirs.

In response to our requests from ministries, I advise the committee that the Ministry of Education and the Ministry of Finance do object to the bill in its current form right now but are agreed to withdraw their objections if the bill is amended.

The Ministry of Finance would like the assessment to remain on the assessment roll, and that's obviously something that's always of great advantage even to the municipality, at least to see what the assessment is, particularly the amount of assessment that's been forgoing. It would therefore support a tax write-off.

Education would like the bill amended to ensure that the school board grants its approval before its taxes are written off, and that's in keeping with the policies this committee has been wrestling with.

The Ministry of Municipal Affairs objects to the Lions Foundation's request for private legislation, mainly for these reasons: first, that the ministry objects to the principle of property tax exemptions and would prefer that municipalities provide a grant to the organization, and indeed that is an option open to the town of Oakville. It could indeed grant a gift in lieu of whatever the school board's taxes are; second, the bill reduces the tax base of the Halton Board of Education without the board's approval.

For that reason, the bill in its current form is not one that the government is prepared to support. Three ministries have indicated no support. They have recommended, and I would strongly recommend — but it's in the hands of the deputants and I'd like to see them work through an accommodation that a deferral would be one thing in order to give them a chance to in fact bring in amendments that are in keeping with bills that have come through this committee certainly in the past year, and more, for that matter — that the bill should provide for the exemption of the municipal taxes only, and because it would not be feasible to administer an assessment exemption unless it applies to all levels of local government, the bill removes the provision to deem the exemption an assessment exemption and instead provide for a tax write-off.

If those amendments were in place, certainly the government would have no further objections and the three ministries involved would withdraw their objections. But in its current form, I am required to advise this committee that the government represents now the objections of three ministries.



**The Chair:** We now call for questions from committee members to either the applicants or the parliamentary assistant.

**Mr Alvin Curling (Scarborough North):** I just have a question and I have some comments to make. I was going to ask what was the objection of the Halton school board, and the parliamentary assistant gave some explanation of that. What is the percentage there? Is it 61%?

**Mr Shea:** It's 61%.

**Mr Curling:** And the municipality has 26%?

**Mr Shea:** Yes, 26% and —

**Mr Curling:** And the region has 36%?

**Mr Shea:** Thirteen percent.

**Mr Curling:** Oh, 13%. So from the initial point of view you're losing anyhow, because if the body making the decision is the Halton school board, you're dead in the water from the beginning, it seems, the way this is set up. Is that so, Mayor?

**Mrs Mulvale:** I would defer to Doug Gates, other than to restate the point I tried to make twice: The people of Oakville, because of their assessment base, pay the greatest share of the board of education and they are not objecting. I'm merely suggesting the trustees have not given them that opportunity. But the town solicitor, Mr Gates, has a point.

**Mr Douglas Gates:** Yes, I'd like to respond and just make two or three points. One is that the ministry has had the same objection for perhaps a year and a half now to this bill. Basically, it goes to the 60% share of the Halton board, but Ann Mulvale is correct that at both the regional level and the local level the politicians have had the foresight to proceed on this road to attempt to see this exempt.

1050

The thing is, it should be of some concern to the committee as to the position in which it puts the Lions Club, because what the type of legislation that's proposed by the ministry would do is that every year or every second year — I think it's every year — there would be a vote at the Halton board and they would never know from one year to the other how many dogs would be able to be provided, depending on the vote that year, the funding level to the schools that year and all the rest of that. So it is a very precarious and unfortunate situation.

The other thing here is, though, I think the ministry's greatest concern was this fact that the floodgates would then open again to complete exemptions and it appeared that that door had been closed. But what I would remind the committee here is, first of all, this situation came about because of the government's assessment department finding on the same facts in 1983 that they are exempt and in 1993 finding that this organization is not exempt.

Had they found originally that they were exempt, I am certain the Lions Club would have been here in 1984 with a similar application, and at that time there was no difficulty in granting a complete exemption, and in fact many much less worthy organizations were given complete exemptions from tax, both in Oakville and in many other municipalities.

So what we have here are two points: (1) We have this history that is unique to this organization of never having paid tax; (2) We have an organization that is important

not just to Oakville, not just to Ontario, but a Canadian organization that's important to all of Canada. It makes it extremely unique and you're not likely going to see that again. So the committee should not be afraid of a precedent here.

**Mr Curling:** Thank you for clarifying this. I'll just make some comments now, because I want to say it's a tremendous presentation you all have given. The work of the Lions Club is unprecedented, the things it does. By your video and by your presentation and the support of the mayor, it's tremendous. I'm one who believes the government should be doing more, and more efficiently. I don't believe the government should be doing less, because usually the saying is that we should be doing less.

The fact is that it's to give the power to the people and to the organization to be more effective. On one hand, I'm hearing that the government is cutting off some of the supplies and support of funding, and in the meantime, when the organization is certain itself to take on this role, you have been restricted by all kinds of regulations and all kinds of rules why the ministries won't do this, and why that won't do this, in those directions.

Therefore, you're caught in this kind of bureaucratic nightmare, a political mire of things. The people of Oakville are saying, "Go ahead," the ministry over this side in some place locked away is saying, "Oh no, we can't afford to do this." In the meantime, your hands are tied. You have all the ability to carry on the services which the people need, very important and very effective services to the people.

I'm saying that I and my party will strongly support this legislation, this private member's bill, because we see it as something giving power to the people to do the work. In the meantime, the government has changed the rules since it's been in power. They've changed the rules about how funding should be done and now I'm hearing that we can't do them because we have rules here that restrict you to carry on the purpose you're intended to do. I personally will support it and I know my colleagues are in strong support of the tremendous work you are doing, but the government has cut off the funding.

One last point: Of course the board is concerned that if it's giving up this kind of funding it may not want to do that for its own selfish, maybe important reasons, because they need money to run the school boards. In the meantime, the government has refused to pass on that kind of funding. I think if one can resolve that, if that's the only thing to be resolved, maybe you will be able to get the support of the board. The board has told you yes, but the government here is telling you no, because they will not pass on any more funding to the school board. So I will be supporting this legislation.

**Mr Shea:** We're out of order in the case of bouncing back and forth, but I will indeed engage Mr Curling in that nonsense and hyperbole. The fact is I'm astonished that he misunderstands what this issue is about. The fact is we are dealing with a duly elected school board that has said no. It is the taxes, it is estimates that it has to raise, and it has said no, it will not in fact give up that money.

I find it quite offensive that a member of this committee would try to lay the responsibility for that upon the



backs of the bureaucracy in any of the ministries. There are three ministries that have said no. They have said so consistently, and, I might point out to the member, not just with this government.

So let's be very clear: You can't grandfather a past mistake. If it is a mistake and it has come forward, you find a way to get through it, and indeed some suggestions have been made how to do it. Other applicants who find themselves in the same position have indeed responded in a fashion that we've held out as an option for the deputant.

The trustees are as duly elected as is the mayor, as is her council, and they stand before the people of their constituency and they will have to stand and explain why they are not prepared to forgo the 61% of their revenue. Let them make the case and I would hope that my colleague to my left, politically and physically, will go forward to the school board and explain to them why he thinks they should give up their money and should accede.

**Mr Curling:** You explain to them, you've got the money.

**Mr Shea:** I have also pointed out clearly — and I do appreciate the significance of this issue and the good works that this facility represents — that in the first instance if there is no determination to withdraw the bill and amend it, as others have done in recognition of the responsibilities and the authority of the school board, then I would think the council — the council of Oakville at least — might very well elect to make a grant in lieu which would make up the difference, something in the order of some \$14,000, whatever that is, not including what the new assessment would require for the expansion part. That is certainly an option that is before the council of Oakville and it could do that even at this moment.

**Mr John O'Toole (Durham East):** I just want to reiterate much of what the parliamentary assistant has said: A very excellent presentation and I'm very supportive of the concept. Obviously, I think everyone in this room is. I think it really comes down to a matter of the decision process, the duly elected functional responsibilities of people.

We in government sit and listen as we get accused of being dictatorial — I've heard the word "draconian" — overriding the local public will. In my view, to overrule those duly elected would be an error in judgement. It is a local problem. We don't need to redirect the boundaries of Canada to deal with the problem.

A case in point, if I could point it out: I'm from Durham East, and one of the municipalities in my riding, Bowmanville, part of Clarington, has a Lions Club which provides a great deal of service for blood donor clinics, senior citizens' activities, and indeed I was the liaison on that committee when I was a member of council. They do exactly as the PA said, annually have a grant in lieu of taxes, equal to the taxes actually. That's the formula. I agree with the point made that it provides a rather fragile revenue stream, but today revenue is fragile for all of our partners. So it's not new.

I just want to ask a couple of very specific questions, if I could, Mr Brown. What's the budget of the facility?

You provide a wonderful service, but you have a budget, I'm sure.

**Mr Brown:** This current year it's \$1.85 million.

**Mr O'Toole:** Is there any other, to your knowledge, provider outside of Ottawa and Montreal, perhaps private sector provider of the —

**Mr Brown:** Providing the dogs?

**Mr O'Toole:** Yes.

**Mr Brown:** Not in Canada, no.

**Mr O'Toole:** Not in Canada. So they're not available?

**Mr Brown:** There are 11 schools in the United States, but their input into Canada is decreasing rapidly.

**Mr O'Toole:** Yes, because yours are free. Well, they're not free; they're \$17,000 each, aren't they? That's what it costs.

I think it is a local decision and I can understand the demand would increase; specifically, as the price goes down demand increases, and it is a local decision. I can't support, although my heart tells me if I was a local trustee I would gladly support it with a grant in lieu of taxes. That's really the place the decision should be made, not have the Queen, the Lieutenant Governor have to intervene to solve this in an order in council.

1100

**Mr Curling:** On a point of order, Mr Chairman: I just want the parliamentary assistant to examine some of the statements that he has made towards me, about my comments being nonsense and stupid. I'm an elected member here. I respect the parliamentary assistant and his presentation, and we can debate it in a very intelligent manner, but I totally take offence to the fact that he feels that I am stupid and my remarks are nonsensical.

**Mr Shea:** Mr Chairman, it's funny, I don't think I used the word "stupid" once. I would never use the word "stupid" towards a —

**The Chair:** The word "nonsense" was used. I'd just like to leave it at that, recognizing that word was used.

**Mr Shea:** I would never call him stupid; not for a moment.

**Mr Curling:** What did the parliamentary assistant say?

**Mr Tony Ruprecht (Parkdale):** Did he say he was sorry, or what?

**Mr Shea:** I'm sure I wouldn't call and I didn't call my colleague stupid.

**Mr Ruprecht:** What are you going to do about this now?

**The Chair:** I just indicated that I recognize and I regret that the word "nonsense" was used.

**Mr Ruprecht:** So you're going to do nothing? All right, let me ask my question. I'd like to get some clarification from the parliamentary assistant on an item, but while he is talking, let me make some other comments in the meantime.

While I'm somewhat sympathetic, we have to tighten our belts and to some degree this is part of the outcome of this kind of policy. We're finding ourselves in the strange position that this has all been based on what's called an ad hoc policy of the province. Why is that? It's because we have people coming in here from all over the province requesting tax exemptions. Most of them that I've been hearing have been very worthy of this tax



exemption, and in the majority of cases we have, in the final analysis, granted them a tax exemption.

Today we hear from the Lions Club. Obviously we all agree that their work has been fantastic; nobody would quibble with that. What will be our position? If our position is simply to say that we will rest the decision-making powers with the municipality alone, or in this case the school board, the problem will not go away. In short, there will be other people and organizations coming to us asking for tax exemptions. I expect that what we need to do is clarify the provincial position. It cannot be done on an ad hoc basis as we have proceeded in the past.

We have previously decided that we would like to streamline the process and examine our policies to see that we don't have everybody coming down here to make presentations to us. This falls, to some degree, in the same category, that if the policy of the province were clear and unequivocal, then we wouldn't have to hear these kinds of deputations.

Previously we've had many organizations in the city of Toronto that also have had tax exemptions and that do not have a provincial-wide basis, as this Lions Club does. We heard today that indeed the service they are providing goes beyond the boundaries of the municipality. That's clear, isn't it? Where is the fairness here? If we have an organization that is providing services for most of Ontarians, or for that matter, since there are no exceptions, for all Ontarians, should their request not be considered?

I suppose to the parliamentary assistant in a way, I'm sympathetic to some degree to the tightening of our belts. Obviously, we have to go through some exercise in doing that, and while not everyone in the opposition shares that experience, to some degree I share that here. I expect that somehow it may not necessarily fall within the context of all committees to make this decision of clarification but — this goes to the parliamentary assistant — he may want to take this to the ministerial level or we may decide to do it ourselves at the committee level. Somehow we should probably get on with the business of clarifying it so that we don't have these deputations coming to us from all over Ontario.

I have to ask one more question: If the parliamentary assistant, Mr Shea, has recommended that — I guess that is the position of the government. If this bill were to be withdrawn and amended, I'm not sure whether this would be perceived by the deputants as stalling or tabling it. In the final analysis, that may mean the death of it because it would draw things out for years. I don't know who's got the answer to that, but that could be looked at as another favourite technique just to kill this thing dead in its tracks. I don't know that and I'm not here to cast any shadows of doubt on this but I'd like to have this clarified: Specifically, what would it mean if this bill were to be withdrawn and amended, how much time would that take and what would the process be after that? I'm not sure who could answer that, but Mr Shea might be able to shed some light on it.

**The Chair:** I think there was a comment from Mayor Mulvale.

**Mrs Mulvale:** Mr Chairman, if I might just say, the people who need these are not partisan; the dogs are not partisan; we don't perceive this to be a partisan issue. We appreciate the courtesy that all members of this committee are extending to us.

It's part of our journey to try and correct an issue that is of no one's creation, and our legal counsel has clearly defined how, if this had gone a different journey in the 1980s, we don't believe this would be an issue before you. We don't think this issue is being created because of a change in government now or a change in government four years ago. We are here to try and articulate our case, and I'd like to clarify that this is not a Lions Club; this is a Lions foundation. It's a very different situation here. I don't want to confuse the issue with what may have happened in one of your ridings.

We would obviously take the discussion under advisement. I can assure you we will find a way. We believed, in consultation with our provincial member, there was a way, an option this committee could exercise recognizing the uniqueness of the case. We consider our time this morning an investment and we will continue to journey, on behalf of the people who benefit from a Lions Foundation, to find a way. We're not looking for another level of government to absorb the cost. We're looking for some means, some creative tools to continue historic support.

The people of Oakville, because of our assessment base, pay the largest share of the education bill for the people of Halton, and the regional councillors, some of whom have been trustees, clearly understand that. Support from regional council crossed all lines, all boundaries, and we were delighted with that. We will continue to wrestle to find a solution. We are not defeatists.

My solicitor has one further comment in terms of the procedure we will follow, but I do not want this issue to become — maybe I'm naïve — a partisan issue. We came on behalf of the people of Oakville for a solution. We will continue to journey towards a solution.

1110

**Mr Gates:** Two things: In terms of council direction to staff and to the mayor, we're here to ask for the exemption entirely. I think if we were to receive something less we would accept that because that's the will of this government, but our goal here, and the reason we have taken two years and it's been a huge fight all along the way, is because we want an entire exemption.

The other thing is that I think this government, more than any other government, should be aware that the reason this does not qualify as exempt under the Assessment Act is because it gets no government support. If it were more reliant on this government, it would be exempt. It's ironic and completely the opposite direction that you'd expect.

There is one further thing in terms of assessment issues in the local municipality that you may not be aware of. I act on behalf of the local municipality, and we are scheduled for a six-week Ontario Municipal Board hearing, starting at the end of May, on an assessment matter. This assessment matter deals with industrial lands and whether they should qualify for an industrial farm exemption.



The point I wish to make is, there is \$200,000 at issue that is the board of education's money this year, so they stand to lose \$200,000. Who is taking the fight for the board? The local municipality. The board is sending no lawyer; I'm there representing the town, and they take what comes out of that. This is just a pittance for them.

**The Chair:** Further to Mr Ruprecht's question, I'll ask the clerk for a response.

**Clerk of the Committee:** In terms of the timing and the options that are open with respect to this bill, obviously the committee could pass the bill today. If the committee were to defeat the bill today from a procedural point of view, the bill would be dead, and if this applicant wanted to proceed they would have to start anew with a fresh application, which would be heard at the earliest between September and December this year.

This committee has the power to amend the bill here and now. This committee in the past has taken the view that they don't tend to amend bills over the objections of applicants because applicants always have the right not to proceed with amendments they don't agree with. The committee also has the power to defer this bill, which would keep the bill alive so that something could be worked out between the ministry and the applicant and there would be a good chance that it could be reheard before the end of June.

**Mr Dave Boushy (Sarnia):** A question to her worship: You're asking us to overrule the school board's decision. If municipalities, local councils, give you a grant, not in lieu of taxes, just a straight-out grant from their budget, wouldn't that accomplish the same thing? Wouldn't they actually be taking money from school budgets and giving it to you?

**Mrs Mulvale:** I understand we would have to fund the total share on the municipal. Let me say, sir, the issue is not them giving money back. They have never collected this money.

**Mr Boushy:** If local councils give you a grant equal to what you're asking for, wouldn't that be overruling the school boards and giving you their share as well?

**Mrs Mulvale:** I believe we only have power to grant from our revenue that we generate. If we wanted to grant in lieu of ours and the region's, but if we wanted to give a grant on behalf of the school boards, we'd have to fund it. We couldn't debit the money we transfer that we collected on their behalf to meet their levy.

**Mr John Hastings (Etobicoke-Rexdale):** Pursuant to that, Mayor Mulvale, what are the chances, however, of trying to establish an agreement or an accord with the Halton board to permit them to provide their portion of the 61% or the grant in lieu of? Have you explored that situation with the chairman of the Halton board?

**Mrs Mulvale:** I've talked with both chairmen of school boards plus the regional chair as we tried to broker a process parallel to the advice of our MPP on how best to proceed, and given the support we had from the region, we decided we would proceed in this way to stop the issue of granting in lieu and the vulnerability that would be annual. In essence, this foundation has never had to go cap in hand to the school board, to the region, to the town because they were given a ruling that gave them an exemption. It's really quite unfair. It was not

their fault that this is being reconsidered and that they've lost that exemption.

We are trying to maintain the status quo and we believe the uniqueness of this case, the compelling argument of this case warrants that special consideration, notwithstanding the changes of views that may have followed since then. The error, if there was an error, was made by the assessment people years ago when this foundation commenced its operation. I don't perceive, by the people of Oakville's viewpoint, that it was an error. Let me reiterate, and I don't want to frustrate this committee, I have had no complaints, and there's been a very public process with what we are here to request you to allow us to continue to do. We're asking you to confirm the status quo. We're not asking you to give provincial dollars and we're not asking you to say, "Yes, it's a worthy cause"; we're asking you to give us a vehicle to confirm the status quo. Overwhelmingly the people of Oakville are behind this request of this committee.

**Mr Hastings:** I thank you for your comments and I'm ultrasympathetic to your cause. However, I have a major problem with no supporting data here, a letter, at least, from the Halton Board of Education chairman that says: "We can't give you the money. We're not allowed to, whatever the background, but we agree in spirit with what the town of Oakville is trying to achieve." Furthermore, why have you not got any supporting letters from the other municipalities — perhaps this is more directed to Mr Brown — whose Lions clubs have participated in programs or whose citizens have been beneficiaries of the vital assistance that vision-impaired people have received? If I could get that kind of stuff, that would help me be more empathetic to your situation.

**Mrs Mulvale:** Sir, if I might, the region of Halton comprises four municipalities — Oakville, Burlington, Halton Hills and Milton. The regional council by a substantive majority elected to represent those three other municipalities in concert with Oakville and passed a resolution in support of this. The issue that often adds to the confusion of having local Lions clubs speak in support keeps putting this issue into the context of a service club exemption. It is a foundation that is empowered by a great deal of service clubs of the Lions persuasion for sure.

We believe strongly; we did not expect anybody to want proof that the service you've seen so clearly on that video was in question in terms of the empowerment of people. If you need that, we will certainly get you those letters. The Lions Foundation has them on file. We felt that the resolution of a regional council representing four municipalities, one of whom was bringing forward this bill, and the service given to the community and to the people was self-evident, so we didn't paper you to death. We believe in saving trees if we can.

**Mr Hastings:** My additional question is not necessarily related to your four municipalities in Halton region but to adjoining municipalities in the greater Toronto area that probably have benefit. The argument's been made that obviously we have constituents who have been or will be or are beneficiaries. That's the point I'm trying to make.



**Mrs Mulvale:** We'd be pleased to provide that material. We did not provide it from other municipalities because they do not contribute to the funding of the exemption we're seeking to maintain.

**Mr Hastings:** What is the Halton Board of Education's position? A total outright refusal in terms of assisting you?

**Mrs Mulvale:** They have, one to one, some real support for the spirit. As you've articulated, you'd like to hear that, and I can tell you that assuredly. The problem is that they knew likely what the report from their bureaucrats would be and they embraced it. Rather than get into a lengthy debate, they embraced that recommendation.

At the region we had a similar report. Who is not going to say yes to a new revenue source, initially? When we debated it at the region and in conversation with the then chair of the Halton board — because the public board chair has changed — there was empathy, there was a desire to help, but there was a realization, when that bureaucratic report hit the table, that they would choose not to deal with it, and we were able to effect a very substantial change at the regional level. The question is, should I speak before the board of education? That was an option. I did not wish to get into that sort of thrust as it was revenue they had never collected.

**Mr Hastings:** What is your position regarding the outcome? If we vote against this today, you're dead in terms of the foundation. Are you prepared to look at a deferment until we have straightened this out?

**Mrs Mulvale:** I obviously haven't officially caucused with the delegation from Oakville and certainly the Lions Foundation. I was conscious of the direction that Mr Shea was giving and conscious of the help the clerk was giving in terms of time frame. We do not want the issue to die. If a deferral keeps it in play, how quickly could the item come back if it were deferred?

**Clerk of the Committee:** There's a good chance this could come back before the end of June, before the end of this sitting.

1120

**Mr Frank Sheehan (Lincoln):** I'd like to support you, I really would, but the school board is, as has been stated, a free-standing legislative body with rights and it would be absolutely foolish of this group to fly in the face of provincial law, notwithstanding our goodwill.

I suggest to you, as Mr Shea has said to you, that this is not like squatters' rights. Just because somebody made a mistake eight years ago or 10 years ago, it doesn't grant you rights. The law is the law and has to be obeyed as such.

The place to put the political pressure is on the school trustees; that's my first thought. The second thought is, if you don't accept a deferral, then what are your thoughts on accepting some of the amendments? As I heard Mr Shea mention, it is possible to amend the resolution with a proviso that would allow the school board to attach to it after the fact.

**Mrs Mulvale:** Sir, my initial reaction, with the advice of the clerk on the time frame, my belief is we would accept the deferral and then we would investigate the wisdom of my appearing at the school board. We can

certainly provide the supporting documentation Mr Hastings has requested. That's not problematic for us at all. My belief would be that we can best keep this journey in play in the most positive way by accepting the deferral, seeking your indulgence in coming back in the time frame the clerk has alluded to, and if at that point we have not got buy-in from the school board or some new information that might assist you in justifying why you could, notwithstanding that non-support, yield to the original request, we would look at making an amendment to allow the provision of the write-off from the town and the region.

**The Chair:** I have a procedural question from Mr Curling.

**Mr Curling:** I'm just wondering if we'd have to put a motion of deferral on this. That's the case? I'll second it.

**The Chair:** We have a motion and a seconder before us. All in favour?

**Mr Hastings:** Before you vote, deferral and execution of disposition of this issue by the end of June?

**The Chair:** I'll ask the clerk to clarify if that was part of the motion.

**Clerk of the Committee:** Just in terms of clarification, when I alluded to the fact that we could probably get it done before the end of June, next week is constituency week; the week after we're looking at three city of Ottawa bills; the week after that we're probably looking at another two city of Toronto bills if we finish their city of Toronto bills today. There is nothing scheduled for the last two weeks. Of course, if the committee instructs me that this is to be rescheduled before the end of June, it will be rescheduled before the end of June.

**Mr Hastings:** And I would, Mr Chairman, advise that this committee reschedule it before the end of June.

**Clerk of the Committee:** So the motion would read that this bill be deferred and be reconsidered at another committee hearing before the end of June.

**The Chair:** I ask again, all in favour of this motion? Opposed? I declare the motion carried.

**Mrs Mulvale:** Mr Chairman, if I might extend thanks from the delegation for the courtesy and for the wise counsel we've received, we look forward to being back before you in that time frame with a means to achieve the end you all want, and I appreciate the courtesy.

**The Chair:** Thank you for your comments and for the video. I now declare this order of business closed.

#### CITY OF TORONTO ACT (TRAFFIC CALMING), 1996

Consideration of Bill Pr54, An Act respecting the City of Toronto.

**The Chair:** Our next order of business for the standing committee is Bill Pr54. Would our applicants approach the witness table. The sponsor is MPP Isabel Bassett. I would ask MPP Bassett for some very brief remarks and then for the applicants to briefly introduce themselves and proceed with comments on this bill.

**Ms Isabel Bassett (St Andrew-St Patrick):** I'm Isabel Bassett and I've been requested by the city of Toronto to introduce Bill Pr54, the City of Toronto Act, 1996. I'm



pleased to support this legislation as I believe it will provide the city with the opportunity to complete its pilot program in this innovative area of traffic management.

I understand that many resident groups in areas across the city are actively participating in formulating traffic calming plans for their neighbourhoods. Hopefully, the extension of this legislation for a further three-year period will allow for a number of such plans to be implemented. This will afford the city a variety of data to be used for a more comprehensive review of these initiatives.

The city solicitor, Dennis Perlin, is here to provide the committee with further background information in support of the city's application.

**Mr Dennis Perlin:** Thank you, Madam Bassett. Mr Chair and members of the committee, I am city solicitor for the city of Toronto. With me is Andy Koropeski, the director of infrastructure planning and the transportation division, department of public works and the environment for the city of Toronto. With Andy is Andrew Macbeth, from the department of public works and the environment, who is specifically involved in these types of projects working for Andy.

In June 1994 we were here before this committee, in another forum, with respect to the city's original traffic calming application for special legislation, which was then Bill Pr43, the City of Toronto Act, 1994. The original application was to address the city's lack of authority in general or special legislation to impose a 30 kilometre per hour speed limit in areas where the city was implementing traffic calming measures. As you know, the general power is 40 kilometres, the normal limitation, but with traffic calming measures, to be able to impose a 30 kilometre per hour speed limit.

Traffic calming measures, for some people who may not be familiar with them, involve a number of temporary or permanent alterations to the public highway such as the narrowing of the roadway by widening the boulevard or by the installation of traffic islands. You can see the blown-up picture. I think you also have in front of you a colour photograph submission we've done on the Balliol traffic calming project in the city, the particular pilot project. I think you have the smaller copy of that particular blow-up with the narrowing and the traffic islands.

Other measures that we have done in certain other areas of the city involve changes to the surface of the road, the intended impact being to modify driver behaviour, make the neighbourhoods more pedestrian-friendly and slow down the speed of traffic through the various neighbourhoods.

At the time of the city's first application, the staff of the Ministry of Transportation were opposed to a blanket enactment with respect to the 30 kilometre per hour speed limit, and so the two-year limitation. That expires on June 23, 1996. At the time of the original application the ministry was considering whether this legislation should be made a general piece of legislation available to municipalities across the province or whether it was a particular issue for the city or certain other municipalities and should be treated as such.

I'm advised by the ministry staff that there has not been enough data collected to date with respect to the particular Balliol project and analysis respecting the first

two years of the city's pilot program, including its other measures, to support a recommendation for an amendment to general legislation.

In light of the pending expiration of the existing legislation, the city is again here. The preference obviously was to remove the sunset clause and just allow us to keep going without a time limitation. However, as a result of communications between the Ministry of Municipal Affairs and Housing staff and the Ministry of Transportation staff, it appears that a further sunset clause of three years has been agreed upon at the staff level, subject of course to your approval.

Other than the change to the sunset clause, the only other one that's in front of you is to allow — in the original bill there was a special sign provision with respect to having to provide for the signs, and so we had very complex schedules attached to the bylaws before council that showed where each sign was and surveyed. What we're asking for is the removal of that. I understand again there's agreement to that, and that it will all be done according to the Highway Traffic Act, as you would see any other speed limitation sign put up and done according to regulation 615.

1130

I know you're pressed for time, so I'll just leave it at that. We believe this is legislation that enhances safety and also has contributed to the city's environmental program, and we would ask you to approve it. You have the handout on the Balliol Street traffic calming project and Andy and Andrew can answer any technical questions you may have.

**The Chair:** Thank you, Mr Perlin. Before we go to further questions from the committee, I would ask the parliamentary assistant, municipal affairs, Derwyn Shea, for any comments you have for the government.

**Mr Shea:** First of all, to thank Mrs Bassett for a succinct presentation, an insightful one, and to thank Mr Perlin for his comments. The government has reviewed the requests and it has no objections.

**Mr Boushy:** I wonder if we could entertain a motion to approve rather than go on; it's a straightforward motion.

**The Chair:** I have a question from Mr Hastings.

**Mr Hastings:** I wonder if either Andy could answer this: In terms of impacts on the environment, what kind of air emission studies have you got? How does this traffic calming actually reduce air emissions, if it does; and if it doesn't, how does it impact the neighbours on the streets who are affected one way or the other by those air emissions? Have you done any studies actually?

**Mr Andrew Koropeski:** Yes. We did a great variety of technical monitoring as well as surveys. We did door-to-door surveys of residents up and down the street that would be affected.

In terms of the environmental impacts, we did some fuel monitoring surveys. We had a van equipped — we did before and after — with equipment that measured fuel consumption which would equate to emissions. The reduction in fuel consumption was somewhere in the range of 20% to 30%. The reason that happens is essentially by constructing the road in this fashion, it regulates the speed of the vehicles and you get a more uniform



speed which means you don't have the stopping and starting and the spread between the highest-speeding driver and the lowest-speeding driver on the street.

**Mr Hastings:** My experience with some traffic calming measures in other municipalities involves the construction of more stop signs. What is your experience when you have a traffic calming situation — not necessarily this one — where there are more stop signs involved if you have complicated intersections? Is there an increase, the reverse when you have more stop signs?

**Mr Koropeski:** Yes. The principle of this is to design the road such that it encourages a more uniform speed. When you have the stop signs, what you're doing is constantly slowing down and accelerating, slowing down and accelerating. That actually does contribute to higher fuel consumption and more emissions.

**Mr Hastings:** All the city of Toronto's traffic calming generally have this design and fewer street signs, fewer stop signs?

**Mr Koropeski:** This is really a pilot program to test this concept and it's the first one that was actually implemented in the city. We've got a few more coming on stream this summer but, like I say, with the extensive monitoring that we did, it is appearing to be quite successful in that sense.

**Mr Len Wood (Cochrane North):** I'm concerned as to how the speeds are being enforced. Do we have cruisers out there enforcing the speed limit and the amount of people who have been charged? I will go one step further. In some areas I see the narrowing of the street. Some areas have speed bumps installed so that if you're going more than the 30 kilometres an hour, you wouldn't be able to do it with the speed bumps there or you'd be doing damage to your car. I just want to know if you have comments on those two things. I don't know the particular area and I don't recall driving through that area, so I'm just curious.

**Mr Koropeski:** They're actually not speed bumps installed. What is done at certain locations is there's a gradual rise in the grade of the road and it levels off and then it falls. It's more gentle than a speed bump. That, combined with the different surface treatments of the pavement — as you can see in the photo in the package as well as the blow-up here, the inner sections are actually paved with concrete brick pavers. That gives the impression. The other aspect is, as you can see, the narrowing of the road. All those factors combine to give the drivers an impression of a roadway that isn't conducive to speeding.

I mentioned the extensive monitoring we've done. The Metro Toronto Police Service has been part of that. They're very enthusiastic about this type of approach with the actual physical changes to the road and the lower speed limit, because what in effect happens is those changes make the whole thing more or less self-regulating, like you mentioned. It's not really advisable for a driver to go much more than that limit or else they could do some damage. So they're enthusiastic, because it saves on their resources in terms of not having to have the cruisers out there and put the radar enforcement in place as much.

**Mr Len Wood:** With the amount of reduction that we're seeing happening all across the province in municipalities, cities, whether they be police forces or school boards or whatever, my concern was how much of the resources the city of Toronto is going to require to put cruisers out there when there's crime that has to be controlled as well. Are you going to be able to dedicate one or two cruisers to keeping the speed down below 30, when there are only so many resources there for the police forces to fight crime?

**Mr Koropeski:** Because of the design of the road, it's actually very supportive of that. You don't need the actual police enforcement; the design really regulates itself, without that level of actual personnel out there in the field.

**The Chair:** Are the members ready to vote on Pr54, An Act respecting the City of Toronto?

Shall sections 1 through to section 4 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

I wish to thank the sponsor and the applicants for their presentation.

**Ms Bassett:** We have another presentation, Mr Chair.

**The Chair:** A separate bill?

**Ms Bassett:** Yes.

**The Chair:** That's correct, and I now declare this order of business closed.

1140

## CITY OF TORONTO ACT, 1996

Consideration of Bill Pr55, An Act respecting the City of Toronto.

**The Chair:** Our next order of business is Pr55. The sponsor is Isabel Bassett, MPP. I understand the applicants are approaching the witness table and I ask MPP Bassett for comments before the applicants introduce themselves and provide us with comments.

**Ms Bassett:** It's my pleasure to introduce Bill Pr55, the City of Toronto Act, 1996. This legislation would operate to allow the city of Toronto to expropriate certain rights of way over city-owned lands which were previously reserved by provincial statute to the owners or occupants of lands abutting the lands known as St Patrick's Market and St Patrick's Market Square. It's my understanding that the city needs to acquire all private interests in these lands so that they may be dedicated as public highways.

Mr Perlin will present this bill, and I would respectfully request that your committee, after consideration of his proposal, recommend that the Legislature pass Pr55 in its present form.

**Mr Perlin:** Mr Chairman and members of the standing committee, with me at this point I have Ward Earle, who is a solicitor in my department who has worked with me on the preparation of the materials, including the compendium that you have, and Mr George Millers, of the department of public works and the environment, who can answer any technical questions you may have concerning the present and proposed use of the lands



affected; that is, the public lane and public highway lands around St Patrick's Market. For those of you who may be familiar, it's on Queen Street West, just west of McCaul in the city.

Previously there were certain rights of way, which are indicated on schedule C to the city's compendium, really all of the hatched lines that you see — and you have a blow-up, the easterly 10 feet and the westerly 10 feet. Those are really the hatched lines. What you see is a portrayal of how the St Patrick's Market and St Patrick's Market Square actually look, but we have to clean up some of the title problems that remain, and the hatched lines on the west 10 feet and on the east 10 feet are what we are talking about today.

What happened was that these lands were deeded to public use in 1837. However, the original deed had a restriction that required they only be used for public market purposes and would revert to the grantor who dedicated them to the city if it was attempted to be used for any other purpose.

In 1909, an application was made under the Quieting Titles Act to remove this restriction and declare that the city was the owner of the lands "in fee simple and possession in trust for the use and purpose of establishing, keeping and maintaining a public market," but there were no residual rights. Those were gone in 1909. But when that was done, to get out of the abutting lands on either side, on to McCaul Street or on to John Street, what you had to do was travel all the way down to Queen at that time. Renfrew Place wasn't available, so to get out of their properties, people had to go down the lane all the way to Queen Street. Right now, people don't need that. The only ones who require it are north of Renfrew; they go down and can go out Renfrew Place.

But in 1947 that was the only way to go; since 1909, it was all the way down to Queen. It was decided, however, at that time by the city that it wanted to use all of this property from Queen Street West to the very top for something more than just a market, perhaps also a playground, perhaps also a parking lot that would be used to serve the market. In 1947, there was a City of Toronto Act passed by the Legislature, section 5, which vested in fee simple to the city, free from any trust, in terms of the trust being for public market only, so you could have a playground or you could have a parking lot, but still leaving the land subject to a right of way in favour of the owners or occupants of the lands abutting the eastern limit of the lands and a right of way abutting the western limit.

Over time, however, the lands have evolved in response to the needs of the area and now are essentially used by the public for pedestrian and vehicular access purposes. Indeed the portion south of Renfrew has been redone with decorative paving and certain installations such as benches, lamp standards and trees. The areas north of Renfrew adjacent to the St Patrick's Market Square, are used for vehicular access and as a result there are concrete walkways and curbs that have been installed.

Given the present use of the lands, city council now believes it's appropriate that they be dedicated as public highway so as to allow the city to institute appropriate traffic and parking restrictions on the travelled portions

and ensure that these lands fall clearly within the Municipal Act with respect to the determination of rights and responsibilities.

As a technical matter, these lands cannot be dedicated as public highway until such time as any remaining private interest in the lands is extinguished. Because those remaining private rights of way were by way of statutory grant, the 1947 legislation, we are here because we cannot even proceed under the Expropriations Act.

What is in front of you is a bill to allow us to proceed under the Expropriations Act in order that we may have those lands put into the public highway purpose and dedicated as public highway. We asked originally, because of the way it's all been set up and the lack of, really, the use of these laneways any further by people who are on either McCaul or John as requiring it, to just allow us to extinguish those rights, but the preference was to have this matter proceed under the Expropriations Act. What's in front of you is simply a bill that would have these lands being able to be expropriated in the normal course under the Expropriations Act.

**The Chair:** Further comments from the applicants? Hearing none, I would now ask the parliamentary assistant for municipal affairs for comments.

**Mr Shea:** Once again, a very insightful and helpful presentation by both Ms Bassett and Mr Perlin. I have a question, just before I make a comment, of Mr Perlin, who is a font of all knowledge. When the subject lands were originally deeded, were they deeded to the town of York or the city of Toronto?

**Mr Perlin:** That's a good question. I'd have to check on that; I'm sorry.

**Mr Shea:** Well, take that under advisement. Having said that, the government has absolutely no objection to this request.

**The Chair:** I now go to questions from the committee to either the parliamentary assistant or the applicants.

**Mr O'Toole:** Just a quick one. The green space north of Renfrew, is it going to become a street? An open street right on St Patrick all the way from Queen to Stephanie; is that it?

**Mr Perlin:** Because I don't want to disappoint Mr Shea on this one, it was deeded to the city of Toronto, so we have clarified that.

**Mr Shea:** Let the record show you required additional counsel in that regard.

**Mr Perlin:** Mr Millers can explain to you, Mr O'Toole, how it will —

**Mr George Millers:** The green portion has been developed as a current city park. It's been landscaped.

**Mr O'Toole:** It's a park today.

**Mr Millers:** It's a nice little park, landscaped. There's vegetation there and it can be enjoyed by everybody. All the work's been completed. That is a little parkette in the centre of that block.

**Mr O'Toole:** What you're saying is, it's not going to be a street; it's going to stay as a park.

**Mr Millers:** No. The streets are on either side of the park.

**Mr Sheehan:** The blue lines going vertically are road rights of way?

**Mr Millers:** Yes. Those reflect the portions that we would like to dedicate for public highways.

**Mr Sheehan:** What are they now?

**Mr Millers:** City-owned property and subject to the rights that were explained.

**Mr Sheehan:** Do the people who own property on either side of those blue lines currently drive their vehicles up those blue lines and access their property?

**Mr Millers:** Yes, they do.

**Mr Sheehan:** What are you going to do to them if you are granted these rights?

**Mr Millers:** Then we can officially — to extinguish —

**Mr Sheehan:** I know what you can do officially. My question is, what's going to happen to this access that these people now are guaranteed?

**Mr Millers:** In practical terms, there's no change. They have access—

**Mr Sheehan:** Then why do you need the change?

**Mr Millers:** So that we can implement the Highway Traffic Act and the city traffic bylaws and so on. Right now, they're lands owned by the city used for highway, subject to a right of way, but we can't dedicate them officially for highway purposes.

**Mr Sheehan:** I appreciate all that nice stuff, but my concern is we're going to give you an authority and there's nothing to say you walk out the door and you could shut that street or expropriate those people, or you're going to extinguish their rights of way, and then they will have no access. What guarantee are you going to give those people who had this access all these years? How are you going to guarantee their rights?

**Mr Perlin:** Well, a couple of ways. If we were to do that, which isn't the intention of city council — the intention of city council is just to have it dedicated so we can put no-parking restrictions, laneway controls in terms of speed which can't be enforced right now by virtue of the limitations we have. It's simply public land, if you like, with rights of way over it, but really it functions and it's important for those people getting in and out for us to be able to control it like any other laneway in terms of blockages and speed etc.

Yes, we could advertise once a week for four weeks; we could close it once it was a public road. If we were to do that, though, we've got to find alternative access for those people and make sure they have alternative access. Also under expropriation, if we do injurious affection, if

we damage the value of their property, we will have to pay.

Remember, you're still leaving it under the Expropriations Act, so whatever we do (1) we're subject to the requirements of the Municipal Act in terms of alternative access, and (2) if we take anything from them we'll have to pay compensation.

**Mr Sheehan:** I don't have a lot of confidence in the Expropriations Act. Very few people ever won that argument. My concern is that you say it's your intention to guarantee access. Where is that set out in some other legislation that would guarantee that for those people?

**Mr Perlin:** It will be governed by the public highway requirements of the Municipal Act.

**Mr Sheehan:** What did you say?

**Mr Perlin:** The public highway requirements of the Municipal Act, the same as any other street that we have in the province. We can't close it without providing alternative access or getting the consent of the abutting owners.

**Mr Sheehan:** That's in the act without the consent?

**Mr Perlin:** Yes. They have to have alternative access.

**The Chair:** I have a final question from Mr Hastings.

**Mr Hastings:** Mr Perlin, is this right behind the art gallery, or south of the art gallery?

**Mr Perlin:** South, yes.

**Mr Hastings:** And the green part already?

**Mr Perlin:** Green is already a park; yes.

**Mr Hastings:** Reduced to its essence, this is really the city's left hand expropriating the right hand, isn't it? You already have the usage, you just don't have the title clearance on it.

**Mr Perlin:** That's one way of putting it, yes.

**Mr Hastings:** There's no way you'll be using a user fee here, I guess. I'll move the bill.

**The Chair:** Are the members of this committee ready to vote? We're voting on Bill Pr55, An Act respecting the City of Toronto.

Shall sections 1 through 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

I wish to thank the applicants again for their presentation on this bill and declare this order of business closed.

This meeting is adjourned.

*The committee adjourned at 1153.*



## CONTENTS

Wednesday 15 May 1996

<b>Committee Business</b> .....	T-97
<b>Lions Foundation of Canada, 1996</b> Bill Pr58, <i>Mr Carr</i> .....	T-97
Ann Mulvale, mayor, town of Oakville	
Ron Brown, executive director, Lions Foundation of Canada	
Beatrice Howell, assistant solicitor, town of Oakville	
Douglas Gates, town solicitor, town of Oakville	
<b>City of Toronto Act (Traffic Calming), 1996</b> , Bill Pr54, <i>Ms Bassett</i> .....	T-105
Isabel Bassett, MPP	
Dennis Perlin, city solicitor, city of Toronto	
Andrew Koropeski, department of public works and the environment, city of Toronto	
<b>City of Toronto Act, 1996</b> , Bill Pr55, <i>Ms Bassett</i> .....	T-107
Isabel Bassett, MPP	
Dennis Perlin, city solicitor, city of Toronto	
George Millers, department of public works and the environment, city of Toronto	

## STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

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**Vice-Chair / Vice-Président:** Smith, Bruce (Middlesex PC)

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\*Rollins, E. J. Douglas (Quinte PC)

\*Ruprecht, Tony (Parkdale L)

Sergio, Mario (Yorkview L)

\*Shea, Derwyn (High Park-Swansea PC); parliamentary assistant  
to the Minister of Municipal Affairs and Housing

\*Sheehan, Frank (Lincoln PC)

\*Smith, Bruce (Middlesex PC)

*\*In attendance / présents*

### **Substitutions present / Membres remplaçants présents:**

Curling, Alvin (Scarborough North / -Nord L) for Mrs Pupatello

Lalonde, Jean-Marc (Prescott and Russell / Prescott et Russell L) for Mr Sergio

Martin, Tony (Sault Ste. Marie ND) for Mr Bisson

### **Also taking part / Autres participants et participantes:**

Wood, Len (Cochrane North / -Nord ND)

**Clerk / Greffière:** Lisa Freedman

**Staff / Personnel:** Michael Wood, legislative counsel



T-11

T-11

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## Assemblée législative de l'Ontario

Première session, 36<sup>e</sup> législature

# Official Report of Debates (Hansard)

Wednesday 29 May 1996

# Journal des débats (Hansard)

Mercredi 29 mai 1996

**Standing committee on  
regulations and private bills**

**Comité permanent des  
règlements et des projets  
de loi privés**



Chair: Toby Barrett  
Clerk: Lisa Freedman

Président : Toby Barrett  
Greffière : Lisa Freedman



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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
REGULATIONS AND PRIVATE BILLS

Wednesday 29 May 1996

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS  
ET DES PROJETS DE LOI PRIVÉS

Mercredi 29 mai 1996

*The committee met at 1006 in committee room 1.*

**The Chair (Mr Toby Barrett):** Good morning, all. Welcome to this regular meeting of the standing committee on regulations and private bills. If we all have an agenda before us, I would point out part of the agenda is also on the back of this sheet of paper.

## CITY OF OTTAWA ACT, 1996

Consideration of Bill Pr34, An Act respecting the City of Ottawa.

**The Chair:** Our first order of business today is Bill Pr34. I see the sponsors and applicants are at the witness table. I call on MPP Bernard Grandmaître for comments, then I'll ask the applicants to introduce themselves. You may have received information from the clerk. We ask for very brief comments to begin our deliberations.

**Mr Bernard Grandmaître (Ottawa East):** Thank you, Mr Chair. First I'd like to introduce my guests from Ottawa this morning: Edythe Dronshek, legislative counsel for the city of Ottawa, and David Saint, project officer, research and development division for the city of Ottawa.

The purpose of Bill Pr34 is to allow the council of the city of Ottawa to pass bylaws designating highways and sidewalks as removal zones and prohibiting objects or vehicles used to sell goods or refreshments in those zones. The bill also authorizes the creation of a permit system to allow owners of objects or vehicles to sell goods or refreshments in a removal zone.

Mr Chair, you wouldn't want to deal with my three bills at the same time?

**The Chair:** No, one at a time.

**Mr Grandmaître:** Good. I'll let Ms Dronshek give you an explanation of the purpose of the bill.

**Ms Edythe Dronshek:** This application is intended to clarify the powers that the city obtained in the City of Ottawa Act, 1992, No. 4, relating to street vendors and the creation of the permit system. At that time, these general powers were considered to be sufficient to put our designated space program into place and to authorize most of the matters that this application now addresses.

The main principles of the 1992 act remain unchanged. This bill authorizes a practical and effective system of regulating the use of sidewalk, boulevard and roadway space. It provides the authority to create removal zones on parts of highways or on highways in defined areas of the city which are no-vending zones, and then to designate spaces for vending within these zones.

The permit system grants the exclusive use of a designated space by a street vendor for the sale of types of goods or refreshments that are different from goods or refreshments sold in adjacent fixed business premises. For

example, the spots have been designed in a manner that ensures that a flower vendor will not have a designated space located in front of a florist's shop.

The general authority that was obtained is being spelled out in greater detail as it pertains to differing regulatory authority between and within classes so that it clearly expresses the authority, and removes any area of doubt, as to the enabling authority for the designated space program. The following elements have been revised or added to clarify the authority:

The authority to allow vendors such as pedal-powered ice-cream vehicles with a permit to vend generally throughout a removal zone. The existing act allows us to exempt them from the permit system but not to impose rules or regulations on them.

The authority to regulate the types of goods or types of vehicles permitted in a general removal zone permit.

To provide clarification with respect to the method of allocating designated spaces on specific portions of sidewalk, boulevard or roadway space by specifying the different criteria that may be used to allocate spaces, including a call for tenders or proposals, drawing of lots and consideration of the length of time an applicant has been the holder of a permit issued by the city. The 1992 act gave us the authority to establish the method of allocation and did not elaborate the criteria.

The authority to limit the number of permits issued to any one person or to any type of vendor.

There is an opportunity for certain vendors, and the city at this point has opted for the original permit holder to match the highest bid and be offered that space, so the person that has been vending on that space for two years will be given the opportunity to match the bid and remain there. He won't be put out of business with the proposal call.

The following elements have been carried forward without change: the authority of the council or a committee of council to suspend or revoke a permit after giving the permit holder the opportunity to be heard; the authority respecting enforcement and the general removal authority; and the provision indicating that the bylaw passed under this act applies to a highway established as a regional road by the regional municipality of Ottawa-Carleton if and when approved by the regional municipality. This provision has a sunset clause pending the same legislation being obtained by the region.

The regional municipality, on May 22, 1996, approved Ottawa's application for clarifying the authority to regulate street vendors and will seek to amend its legislation directly. It also authorized Ottawa to continue administering and enforcing the designated space program on regional roads within the city.



The designated space program prohibits vending in a defined area of the city on both city and regional roads, authorizes vending spaces to be established within the area and permits the vendor to have exclusive use of the specific space. One of Ottawa's conditions precedent for obtaining a permit is that the vendor must also hold a licence from the city for vending in either the itinerant seller class or the refreshment vehicle class.

The permit system is superimposed over the broader-based licensing regulations. The conditions precedent for obtaining a business licence and the regulations respecting the business are found in the general licensing bylaw. The permit regulates the use of street space.

The need to clarify the authority previously granted arises because of the two Supreme Court of Canada decisions released in 1993. In 1993, the Supreme Court in *R. v. Sharma* and *R. v. Greenbaum* held that municipalities are creatures of statute and can therefore exercise only those powers which are explicitly conferred to them by provincial statute, and the enabling legislation must specifically authorize regulations that differ between and within classes. In order to draw a distinction, the enabling legislation must explicitly authorize it. As an overabundance of caution in light of the Supreme Court of Canada decisions, council decided to clarify the powers previously granted by specifying the authority to make regulations that differ between and within classes.

This bill is a replacement bill rather than an amendment because of the standing orders for private bills. They require that where it's proposed to amend a provision, the entire provision must be re-enacted. Because of the style of the previous act, there is need to reference internal numbering and other clause and section references, therefore it was necessary to replace the act rather than amend it.

The city of Ottawa has licensed street and sidewalk vendors, comprised of itinerant sellers such as flower vendors and merchandise peddlers, and refreshment vehicles, comprised of hot dog stands and chip wagons, for a number of years pursuant to the City of Ottawa Act, 1980, No. 2. It has licensing powers that are similar to some granted in Bill 26. It allows us to define classes and set up distinct classes within the group, which is why we have the authority to license sidewalk vendors, roadway vendors and vendors on private property, so that the licensing system in place has different rules for these different types of vending.

The application for enabling legislation in 1992 had been prompted by growing concerns related to street vending activities which had emerged over the course of the previous decade, including traffic congestion, the mobility and appearance of display units, territorial disputes among vendors, the need for increased enforcement and complaints from fixed business premises that street vending compromised their business.

The designated space program has addressed these issues, alleviated these concerns and should be kept intact. It is programming space, which both the business community and the vendors themselves are supportive of. From the vendors' perspective, the designated space program gives the vendor security of location and ability to generate a customer base without the need to fight for

the specific space or arrive at 4 am to be the first vendor to occupy the space. For the business community it ensures that vendors do not sell similar goods as the business adjoining the space. It rations space so that there is not a proliferation of vendors in one location and that new vendors will not be cluttering up or blocking access to their business storefront.

The permit system, together with the ability to call for tenders or proposals or hold a public auction, ensures that the city retains exclusive possession of its streets and highways and removes any doubt that vendors do not have any long-term rights to the space.

The licensing powers in the restructuring act, Bill 26, were reviewed to see if the city obtained the powers needed to enact the designated space program. We are of the opinion it does not. Municipalities are given a general licensing power to regulate and govern any business, and there is increased flexibility in these licensing powers. However, these powers do not provide the authority to prohibit vending in certain areas or on the highways, to designate specific vending spaces and grant exclusive use to a street vendor and to allocate the spaces by the call for tender or proposals.

**Mr Grandmaitre:** I'm sure, with this kind of explanation, there are no questions. I would call for the vote.

**The Chair:** Thank you, Ms Dronshek. Does that conclude comments from the applicants?

**Ms Dronshek:** Yes.

**The Chair:** Seeing no other interested parties, I now ask the parliamentary assistant for municipal affairs, Derwyn Shea, to comment on behalf of the government.

**Mr Derwyn Shea (High Park-Swansea):** The proposed bill clarifies the powers the city of Ottawa obtained in its 1992 private act, and no ministry has expressed any objection.

**The Chair:** I now call for questions from the committee.

1020

**Mr John O'Toole (Durham East):** Just a reminder that the sweeping powers of Bill 26 aren't as ominous as perhaps we thought they were, as the bill suggested. It reminds me of Bill 42 as well, which was a previous prescriptive piece of bylaw legislation.

I really have just one question specifically. If I were a business owner today in this designated area, perhaps a flower dealer, as the owner of the property could I sell fruits and vegetables outside my current business?

**Ms Dronshek:** If you were in the designated space area, you couldn't do it unless the space was actually designated for that type of vending. There is a scenario built into the bill for special events and things of that nature, and sidewalk sales and things of that nature are dealt with —

**Mr O'Toole:** Is that what you'd call a special event?

**Ms Dronshek:** That's what we call a special event, including Canada Day, which is our major special event.

**Mr O'Toole:** What if I were just a homeowner and I decided to sell fruits and vegetables in front of my own home?

**Ms Dronshek:** As long as you're not in the designated zone, you can obtain a licence to sell on the street.

**Mr O'Toole:** You'd still have to be licensed?



**Ms Dronshek:** Yes, you still have to be licensed.

**Mr O'Toole:** Oh, I don't go along with that. I think any private person —

*Interjection.*

**Ms Dronshek:** That's done under our licensing powers.

**Mr David Saint:** Yard sales and so forth are exempt from our licensing bylaws. I had a yard sale last week because I moved. There's nothing in our legislation that limits private residents from having yard sales or garage sales.

**Mr O'Toole:** If I were carving ducks, could I sell them on the stoop outside my house?

**Ms Dronshek:** We'd have to be able to prove that you are carrying on a business in order to fit into the business licence. If you're doing it on a one-time basis or an infrequent basis — but that has nothing to do with this bill.

**Mr O'Toole:** That's fine. I find it rather prescriptive, but since you're charged with governing that municipality — thank you.

**Mr Frank Sheehan (Lincoln):** I have one concern. You have a process here for tendering or bidding for space. You open it up every second year?

**Ms Dronshek:** At this point, it was proposed to be done every third year. The permit is for three years.

**Mr Sheehan:** The third year, whatever. I have a big problem with peddling a person's bid. Right now, there's a licensee of the space, and it's the policy to circulate and give other people an opportunity to acquire that site, but I make a bid and you give the existing occupant the right to second my bid. I find that manifestly unfair and I couldn't support that in any way, shape or form. The rest of it I don't have any problem with, but I really think that's —

**Ms Dronshek:** In fact, the street vendors, prior to our obtaining the legislation in 1992, felt they had rights to these spots; therefore, there was a great amount of dissension among them. They were fighting for spots, showing up early in the morning to be the first one there.

**Mr Sheehan:** I don't have a problem with giving them usage. My problem is that this is public space, and the fact that you're there now doesn't give you rights in perpetuity; otherwise, you should deed the property to him and let him have it and charge him taxes. If there's a tendering process, the tendering process should be a tendering process and the low tender takes it, not giving the other guy a second chance. He doesn't have to do anything — he just sat there — and you've effectively given him total ownership of that spot.

**Mr Saint:** I see where you're coming from. That was a compromise our council made. I believe the way the act is set up is that we "may" provide the right to have a matching bid. That was the way council wanted to go, so we fit that in.

What the bid process is supposed to do is get rid of the speculative value of the spaces because, as you said, it's a public road allowance, but the matching was to at least say, "You've now bid to reflect the value of the space and if you match it, you can continue to carry on." It is a compromise between the person who inhabits the space now, the incumbent, and —

**Mr Sheehan:** It's not a compromise. You've given him title to it without buying it. I can't support the bill for that reason alone. All the rest of it, I have no problem with.

**Mr Saint:** As I say, we do build it into the authority, and we hope and expect that our elected reps back in Ottawa will try to do the right thing when they decide how to allocate space.

**Mr Sheehan:** The tendering process is a long-established business arrangement. It governs in all forms of business. I won't support the bill for that reason. All the rest, I have no problem with.

**Mr Tony Ruprecht (Parkdale):** First of all, I'm delighted to see that Mr Grandmaître is here to support this bill. I am sure he has looked at all the sections, and he certainly has my confidence because of that. I support this bill.

*Interjection.*

**Mr Ruprecht:** No, this has nothing to do with party politics.

I have a question to the parliamentary assistant. What's the precedent for this? Since the ministry has no objection here — have we done this a couple of times before? Have we done this on a number of occasions?

**Mr Shea:** The general thrust is one that you're common with. You've seen it applied in your own riding, for example, Mr Ruprecht, through the city of Toronto. There is some fine-tuning the ministry is still proceeding with, but that will be coming forward in the next few months, I think, with the Municipal Act revisions. In the meantime, we have to deal with these kinds of requests as they come forward for this private legislation.

**Mr Ruprecht:** I understand that afterwards we don't have people to come forward, necessarily, with these items?

**Mr Shea:** We would hope eventually there'll be some fine-tuning of the Municipal Act, and that will make it unnecessary for them to come forward.

**Mr Ruprecht:** Good. Thank you very much.

**Mr Gilles Pouliot (Lake Nipigon):** I too did appreciate the blow-by-blow description of the bill. Madam, with respect, you're to be commended for your diligence.

Having said this, as I listened even more intently, I began to seek your help, for in reading the legislation, the compendium, the intent, the spirit, is not always reflected in laypeople's terms. I'm satisfied that zoning in its integral part is being respected. I'm also satisfied with your ability to reflect the special personality, the circumstances of the daily lives: Bring back the neighbourhood, for instance. Let's hear the different noises associated; people will talk. It opens that up. I think it reflects the ability, and it does not necessarily lead from vendor to haggling. You respect both systems.

There are some people — and it happens to many of us from time to time, depending on the issue — who wish to cut all the trees where I live, and there are some people who don't wish to cut any trees. You strike a balance. I'm very happy that you enlisted the support of our colleague, M. Grandmaître, who is obviously elevating the vulgar trade which is lobbying to the most honourable profession, which again is lobbying.

I have no quarrel. I only wish our small village — we live inland. I live in northwestern Ontario. We've had



that ability for years, because we didn't have the opportunity to come seeking the support of people. We live in a bit of a different world. Yes, I am supportive of the bill, and it's a pleasure meeting you.

1030

**M. Gilles Bisson (Cochrane-Sud) :** Monsieur Grand-maître, comme vous êtes le père ou le grand-père de la Loi 8, une personne toujours distinguée quand il y a question de la francophonie, je trouve ça quasiment intéressant, que le projet de loi n'est pas en français.

**M. Grandmaître :** Oui, vous avez absolument raison. Moi aussi, j'ai eu la même surprise. Par contre, je pense qu'on ne devrait pas blâmer le messenger, parce que je suis le messenger. La loi privée était préparée par le conseil d'ici à Toronto avec l'aide de la municipalité d'Ottawa. Je suis déçu de voir que c'est unilingue, mais la loi s'applique pour les gens bilingues aussi bien que pour les gens unilingues.

**M. Bisson :** Je soulève la question seulement parce que je sais que vous ne voudriez pas laisser cela passer comme l'ancien ministre responsable des affaires francophones.

**M. Grandmaître :** Il y a bien des choses que je ne laisse pas passer, mais avec l'expérience on accepte, amèrement peut-être, mais on l'accepte.

**Mr Bisson :** To the clerk of the committee, I think you understood what I was getting at. I've noticed that more times than not, pretty well every time I've seen a bill through this committee, it is normally printed in English only. Regularly, bills in the House are printed in both French and English. Is that the current practice? Maybe you could clarify it.

**Clerk of the Committee (Ms Lisa Freedman) :** The current practice is that private bills are printed only in English. If there is a request for a bill to be bilingual — and indeed there was an Ottawa bill a number of years ago that M. Morin sponsored; that was a bilingual bill. Legislative counsel may have something to add.

**Mr Pouliot :** On the same point — I don't wish to prolong; there's no need. However, I find, with respect, that your record is not immaculate. It's a family quarrel. As the former minister of francophone affairs, M. Grandmaître, you must find it quite difficult, being the sponsor, sitting where you are now and looking people straight in the eyes, as the former minister responsible for la francophonie in Ontario, soliciting support that the bill would only be printed in English in this case. Thank God I don't have your conscience. I know that I, as the former minister of francophone affairs, would have seen this as a faux pas of the highest order. I'll rest at that.

**Mr Grandmaître :** Thank God some former ministers are still pure. Let's hope that the next time legislation is introduced in the House, it will be supported not only because it's written in French or in English. I'm supporting this type of legislation because it is good legislation, it means good business for the city of Ottawa, and that was my intention this morning.

**The Chair :** Are the members ready to vote on Bill Pr34, An Act respecting the City of Ottawa?

Collapsing sections, shall sections 1 to 8 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Carried.

I declare this order of business closed.

#### CITY OF OTTAWA ACT, 1996

Consideration of Bill Pr47, An Act respecting the City of Ottawa.

**The Chair :** Our next order of business is Bill Pr47. We may be able to dispense with some of the preliminary explanations. I would ask the applicants — we have a number of items on the agenda today — if we could briefly hear comments.

**Mr Grandmaître :** Mr Chair, I agree with you that the opening remarks from Ms Dronshek will certainly satisfy the members of this committee that Pr47 speaks for itself. I would call for the vote.

**The Chair :** If that's acceptable to the applicants? Okay. Are there any comments on behalf of the government from the parliamentary assistant?

**Mr Shea :** There is no objection from any ministry.

**The Chair :** Are there any questions from this committee? Seeing none, are the members of this committee ready to vote on Bill Pr47, An Act respecting the City of Ottawa?

Shall sections 1, 2 and 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Carried.

I declare this order of business closed.

#### CITY OF OTTAWA ACT, 1996

Consideration of Bill Pr48, An Act respecting the City of Ottawa.

**The Chair :** Our next order of business is Bill Pr48. Again I would ask the sponsor and the applicants for comments.

**Mr Grandmaître :** Very briefly, the bill is to provide for the removal of vehicles and objects placed or abandoned on property belonging to the corporation of the city of Ottawa in contravention of any municipal bylaw. Again I don't think a great deal of explanation is needed, and we can go to questions right now.

**The Chair :** Before that, I ask the parliamentary assistant for municipal affairs for any comments.

**Mr Shea :** There are no objections from any ministry.

**The Chair :** The clerk is distributing some information. I have not seen this yet. We have before us a letter of objection, which I draw to the attention of the committee. Any questions from members of this committee?

**Mrs Sandra Pupatello (Windsor-Sandwich) :** You likely have some history with this individual who's sent in a letter. Do you have any comments on how you might address these vending vehicles by the side of the road? Is there a time frame, or have you discussed with him how he might not get towed?

**Mr Saint :** Although he's objecting to this bill, his vehicle could be removed pursuant to the first bill you passed and pursuant to its predecessor, which was already in effect. That just means if his vending vehicle were there in contravention of our bylaw — ie, without a



permit — we could remove it. I don't know what his concern is, in so far as he is permitted, and I can't ascertain under what circumstances we'd remove his vehicle.

**Mrs Pupatello:** I'm presuming this gentleman has an appropriate permit to be doing his business?

**Mr Saint:** Correct. He has one permit for his space in downtown Ottawa, yes.

**The Chair:** Seeing no further questions, are the members ready to vote on Bill Pr48, An Act respecting the City of Ottawa?

Shall sections 1, 2 and 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Carried.

I wish to thank the sponsor and the applicants for your brief comments. I now declare this order of business closed.

1040

#### REVIEW OF 1994-95 REGULATIONS REPORT

**The Chair:** Our next order of business is for this committee to consider its first report on regulations for 1996. With respect to our consideration of the report on regulations, I first wish to introduce Philip Kaye, legislative researcher. I now ask the advice of the committee. Should we consider this discussion in closed session? Any thoughts on that? Hearing no request for closed session, I turn the discussion over to Mr Kaye.

**Mr Philip Kaye:** Thank you, Mr Chair. Members should have two documents which have been prepared by the legislative research service. One is a memorandum dated May 14, entitled *Origins and Mandate of the Standing Committee on Regulations and Private Bills re: Review of Regulations*. The other document is the draft report itself, entitled *Draft Report on 1994-95 Regulations*. There is a covering memo with that draft report, dated May 9.

I thought before reviewing the draft report I would briefly review the origins of this committee and its mandate when it comes to the review of regulations. In 1968, a commission known as the Ontario Royal Commission Inquiry into Civil Rights, also known as the McRuer commission, recommended the creation of a legislative committee on regulations. The commissioner, the Honourable James McRuer, was the recently retired Chief Justice of the High Court of Justice, the trial branch of the Supreme Court of Ontario.

In its Report No. 1, the McRuer commission declared that it was "imperative that some effective form of review by or on behalf of the Legislature should be established." The reference was to the review of regulations. The report went on to say: "The volume of subordinate legislation is very great. It is frequently of more practical importance to the individual than the general framework of statutes under which regulations are passed. It is a primary function of the Legislature to make the laws and it is responsible for all laws it makes or authorizes to be made. A failure by the Legislature to find some specific place in the legislative calendar for supervision of subordinate legislation is in our view a dereliction of duty on its part

and a failure to protect the fundamental civil rights of the individual."

The McRuer commission thought its proposed legislative committee on regulations should serve three purposes. They're listed at the top of page 2, the first one being that the creation of such a committee should result in more care being given to the form and contents of regulations; second, a procedural requirement that the committee consult with the relevant ministry before making an adverse report should lead to the immediate rectification of any ill-considered provisions; and third, that debate on committee reports should have a salutary effect on the process of legislation by regulation.

In a book on regulations in Canada entitled *Delegated Legislation in Canada*, the authors, Dennis Holland and John McGowan, write that McRuer's report was "the major historical impetus towards parliamentary control" over regulations in Ontario.

The following year, 1969, the Legislature acted on the McRuer commission's recommendation and passed an amendment to the Regulations Act. This amendment added a section 12 to the act which provided for the establishment of a standing committee on regulations.

Holland and McGowan, in *Delegated Legislation in Canada*, say that the addition of section 12 to the Regulations Act was "the most significant modification" to the Regulations Act since 1944 when the act was first passed.

Technically, although the legislation says the committee is called the standing committee on regulations, it has had various names: Originally, the standing regulations committee, and currently the standing committee on regulations and private bills.

When it comes to the mandate of the committee, there are two documents to look at. One is the Regulations Act in section 12, which I just referred to, and the other is the standing orders.

Under section 12 of the Regulations Act, every regulation is permanently referred to the standing committee on regulations. As pointed out by the McRuer commission, the significance of a permanent referral means that at any time the committee may consider a regulation, even if it has been previously looked at.

The committee's mandate when considering regulations is expressed as follows in section 12: "The standing committee on regulations shall examine the regulations with particular reference to the scope and method of the exercise of delegated legislative power" — and here there's a very important qualification — "but without reference to the merits of the policy or objectives to be effected by the regulations or enabling statutes, and shall deal with such other matters as are referred to it from time to time by the Assembly."

Section 12 also says that the committee must "from time to time, report to the Assembly its observations, opinions and recommendations." This requirement enables the committee, if it so chooses, to report its observations and opinions about particular regulations without making formal recommendations.

As a result of subsection 12(3), which I just quoted, a review of the merits of regulations — that is, an evaluation of the need for them and their effectiveness — is outside the committee's mandate. In this regard, the



McRuer commission felt that the proposed regulations committee should not supervise the operations of government departments and wrote that "the merits of the regulations are matters for which the government is responsible to the Legislature." The commission's report also stated that the elimination of policy considerations should permit the committee to proceed in a non-partisan way.

This qualification on the committee's mandate that it cannot look at the merits of regulations is very significant, has been seen as controversial, and two previous regulations committees have looked at this qualification and reached very different conclusions.

Going back to 1973, the regulations committee in April that year supported a change in the mandate and made a one-sentence report as follows: "Your committee recommends to the Legislature that in view of the committee's limited statutory powers, regulations be referred to the committee from time to time for review and examination of their merits."

As I write at the bottom of page 3, it is possible to speculate but difficult to say with any certainty what rationale the committee had for making this recommendation.

Ten years later, the regulations committee looked back at this 1973 report and wrote: "Why such a report was thought to be necessary having regard to section 12 of the Regulations Act, what its purpose was and what, if anything, was done about it is unknown to the present committee."

Our surmise is that nothing more was done and that the matter died along with the committee at the end of the session. That was in 1983.

#### 1050

In 1988 the regulations committee, as part of its review of the regulation-making process, again looked at this qualification to the committee's mandate. It reached the opposite conclusion of the 1973 committee. In its Second Report 1988, it recommended that committees of the Legislature should be empowered to examine the merits of regulations with one exception: The regulations committee was excluded from this recommendation, as the committee did not believe it was the role of a regulations committee to review policy. The committee did not have the necessary expertise. As well, it was felt that a merits jurisdiction would probably compromise the non-partisanship of the committee. So section 12, which excludes a merits review, has been looked at but still remains as originally drafted and incorporated in the Regulations Act back in 1969.

I mentioned that the other source for the committee's mandate apart from the Regulations Act is the standing orders, and the standing orders list nine guidelines for the committee to consider when reviewing regulations. All these guidelines were recommended by the McRuer commission, and they read as follows:

"(i) Regulations should not contain provisions initiating new policy, but should be confined to details to give effect to the policy established by the statute;

"(ii) Regulations should be in strict accord with the statute conferring of power, particularly concerning personal liberties;

"(iii) Regulations should be expressed in precise and unambiguous language;

"(iv) Regulations should not have retrospective effect unless clearly authorized by statute."

Guidelines (ii), (iii) and (iv), if you look at previous committee reports, are the guidelines that are involved in most committee reports.

"(v) Regulations should not exclude the jurisdiction of the courts;

"(vi) Regulations should not impose a fine, imprisonment or other penalty;

"(vii) Regulations should not shift the onus of proof of innocence to a person accused of an offence;

"(viii) Regulations should not impose anything in the way of a tax (as distinct from fixing the amount of a licence fee, or the like); and

"(ix) General powers should not be used to establish a judicial tribunal or an administrative tribunal."

In practice, the committee applies a further guideline which holds that, "Regulations should be in conformity with the Canadian Charter of Rights and Freedoms," and in 1988 the committee formally recommended that the standing orders be amended to include this guideline.

The committee relies on counsel from the legislative research service to initially examine the regulations to determine which ones, if any, appear to contravene these guidelines. The regulations are published in the Ontario Gazette, which comes out on a weekly basis.

By way of background in terms of the framework for publication in the Ontario Gazette, under the Regulations Act all regulations have to be filed with the registrar of regulations, and the Regulations Act says that regulations come into force on the date of filing unless otherwise stated in them. So the date of filing is very important, and it's the date the committee has used for determining whether or not a regulation is retrospective. If a regulation comes into force prior to the date of filing, it is retrospective in effect. The Regulations Act further says that regulations have to be published in the Ontario Gazette within one month of filing.

After the regulations have been published in the Ontario Gazette, lawyers in the legislative research service conduct an initial review of the regulations, applying the 10 guidelines I've just recited. But before bringing any regulations to the committee's attention, the research service will always have sought an explanation of the problem in question from the relevant ministry or authority. This procedure is in accordance with the standing orders, which say that the committee cannot draw the attention of the House to a regulation without first affording "the ministry or agency concerned an opportunity to furnish orally or in writing to the committee such explanation as the ministry or agency thinks fit."

That's an overview of why the committee was established, the limitations on its review and the procedure followed by the research service in reviewing the regulations, which leads to the draft report on the 1994-95 regulations. This report is divided into three parts. The first part is an overview of the committee's mandate, referring to section 12 and the relevant standing order, 106(k). The second part of the report is a statistical section. It provides statistics on regulations by act and ministry and also statistics on the number of regulations filed each year during the past 10 years. The third part of



the report deals with the reported regulations and is organized by ministry and guideline violated.

Part I, the introduction, notes that this report covers regulations filed during most of 1994 and all of 1995. It does not cover all of 1994. It excludes the first 100 regulations from 1994, because they were covered by the last regulations committee report, entitled Third Report 1994.

On page 1, there are brief references to section 12 of the Regulations Act and the standing order. I don't think it's necessary to review that again.

The statistical portion of the report starts on page 2 and the chart gives information on the number of regulations filed during each of the past 10 years.

Between 1986 and 1994, the average annual number of regulations was 783, with the greatest variation from this average taking place in 1993 when 953 regulations were made. The question arises, why was there such a spurt in 1993?

A significant factor for this growth in 1993 was the exercise of regulation-making power under 22 health profession acts which had been passed in 1991, such as the Dental Technology Act and the Dietetics Act. Altogether, 119 regulations were made under these 22 acts in 1993.

In 1995, the total number of regulations dropped to 549. This figure is the lowest for the past decade and represents a drop of 30% from the 1986-94 average. This drop to 549 occurred during a year which saw an election and a change of government. If you go back to 1985, other election years with changes of government — 1985 and 1990 — also saw fewer regulations, although approximately 150 more than in 1995.

#### 1100

Next there is a brief review regarding the regulations filed in 1994 and 1995. With respect to the 1994 regulations, 20 acts had at least 10 regulations under them and generated one half of all the regulations. Appendix C to the draft report lists these 20 acts. I should mention that altogether there are six appendices to the report: The first appendix reproduces section 12 of the Regulations Act; the second contains the standing order with the guidelines for the committee; and appendices C, D, E and F have charts listing the acts that generated 10 or more regulations in 1994 and 1995, as well as listing all the ministries and the number of regulations for which each was responsible during those years.

Going back to the statistics for 1994, the top five acts in terms of generating regulations were the Planning Act, the Crop Insurance Act, the Highway Traffic Act, the Provincial Offences Act and the Health Insurance Act.

Forty-three per cent of the regulations fell under the jurisdiction of three ministries: the Ministry of Health, the Ministry of Municipal Affairs and Housing and the Ministry of Agriculture, Food and Rural Affairs.

With respect to 1995, 11 statutes, compared to 20 in 1994, had 10 or more regulations made under each, accounting for one half of the total regulations. As in 1993 and 1994, the Planning Act, the Crop Insurance Act and the Highway Traffic Act generated more regulations than any other act.

Once again, a significant number of regulations, slightly over 50%, fell under the authority of three ministries: the Ministry of Municipal Affairs and Housing, the Ministry

of Agriculture, Food and Rural Affairs, and the Ministry of Health.

The next part of the report is really the nuts and bolts of the report. It's entitled "Regulations Reported" and notes that letters were sent by the legislative research service to 14 ministries and Management Board inquiring about 26 of the regulations. After examining the responses, the research service has decided to include nine regulations in this draft report for the committee's consideration.

The nine regulations involve contraventions of the following guidelines:

First, "Regulations should be in strict accord with the statute conferring of power...." One regulation is reported here as having prescribed compensation for certain individuals under the Substitute Decisions Act in the absence of statutory authority to do so.

The second guideline reported is, "Regulations should be expressed in precise and unambiguous language." Four regulations are reported. In two cases lists of items are ambiguous, and in the remaining two cases there is ambiguity as to when certain provisions come into force and in a reference to a section of the authorizing act.

The third guideline reported is, "Regulations should not have retrospective effect unless clearly authorized by statute." Four regulations are reported here. They came into force prior to the date on which they were filed with the registrar of regulations. The unauthorized retrospectivity ranges from just four days and eight days to approximately one and a half months and four months.

I note in the covering memo to the draft report that in almost every case the ministry or board in question has, in effect, agreed that the reported regulation may have violated the committee's guidelines. There's very little controversy in the report. There's one exception with respect to a regulation under the Interpretation Act which is discussed on pages 8 to 10.

This regulation prescribes a fee payable by a municipality in respect of certain assessments carried out in accordance with the Assessment Act. The regulation was filed with the registrar of regulations on July 5, 1994, but the fees came into force a few days earlier, on July 1, 1994. The retrospectivity in question here is very slight, only four days. This may go back to the fact that the criteria the committee is applying have been characterized as highly technical. As I said, the violation here is quite slight.

The regulation was made under the Interpretation Act, but there is no authority in the Interpretation Act to make regulations retroactive, so a letter was sent to the ministry seeking an explanation. The ministry answered back that the intention was not to make the regulation retrospective, but just to make it prospective. It was made by cabinet on June 23, 1994, and through some "unforeseen delay" was not delivered to the registrar's office until after the July 1 holiday weekend. The ministry also said that there was no way to change the wording of the regulation once it had been made. In these circumstances, it concludes that the committee's guideline on retroactivity has not been violated. In concluding that there has been no violation, the ministry highlighted the date of making the regulation, June 23, 1994, as opposed to its date of filing, July 5,



1994. Indeed, the ministry suggested, "Perhaps the rule should be changed to take into account the date it was made by cabinet, even though it would not take effect until filing."

As noted at the bottom of page 9, the date of filing has a statutory importance, found in section 3 of the Regulations Act, which says, "Unless otherwise stated in it, a regulation comes into force and has effect on and after the day upon which it is filed."

The draft report at the bottom of page 9 continues:

"We wish to emphasize that we are established as a committee under the authority of the Regulations Act and accordingly we believe that our guidelines should be interpreted in accordance with that act. Predecessor committees have taken the same approach and have always based their interpretation of the retroactivity guideline on the date of filing. We see no reason to do otherwise.

"This approach is reinforced by statutory provisions, such as the one mentioned above in the Assessment Act. In order to authorize retroactivity, subsection 2(3) of that act permits a regulation to be 'effective with reference to a period before it was filed.'

"We therefore conclude that O Reg 446/94 'technically' violates our guideline on retrospectivity — albeit by only four days."

This is the only case where the ministry is really challenging head-on the research service's interpretation that the committee's guidelines have been violated.

I should mention just one other regulation, where an amendment to the statute followed from the letter to the ministry legal branch, and that's the first reported regulation under the Substitute Decisions Act discussed at the bottom of page 5 and also on page 6.

Section 1 of that regulation stated that for the purposes of subsection 40(1) of the Substitute Decisions Act, "a guardian of property" or "an attorney under a continuing power of attorney" was entitled to compensation according to a particular formula. But as I note at the top of page 6, the part of section 1 of the regulation which prescribed compensation for "an attorney under a continuing power of attorney" appeared to be without statutory authority. A letter was sent to the office of the public guardian and trustee, which responded that a review of the Substitute Decisions Act had been announced by the government in July 1995. That office was conducting the review, which would include the committee's concern, and indeed the office wrote, "A statutory amendment in this regard is a possibility."

The House has since passed Bill 19, the Advocacy, Consent and Substitute Decisions Statute Law Amendment Act, 1996. One of the amendments in Bill 19 to the Substitute Decisions Act directly addresses the above issue and provides authority to make regulations which prescribe a fee scale for compensating "attorneys under continuing powers of attorney." That amendment is found in a new clause 90(c) to the Substitute Decisions Act.

1110

That basically is an overview of the report, highlighting the one regulation which involves very a technical violation, unauthorized retrospectivity by four days, where the ministry is saying maybe the committee should

interpret the guidelines somewhat differently, and also noting at least one case where a statutory amendment has been made to correct the problem reported.

**The Chair:** Thank you, Mr Kaye. This committee may wish to have questions for Mr Kaye. There were several areas raised. First we have now a historical overview of the regulations process; we have an explanation of the mandate of the regulations side of this committee, and then, lastly, we do have a draft report on the 1994-95 regulations before us. This is marked "Draft" and also marked "Confidential; for committee use only," until it is tabled in the House if we send it forward. So I would ask for comments or questions for Mr Kaye.

**Mr Bruce Smith (Middlesex):** Thank you very much for your presentation. It was certainly very concise. I guess my question is more one of clarification. How do we normally address or dispose of — perhaps senior members of this committee can advise as well — regulations as the one you've identified through the Ministry of Finance? Notwithstanding the four-day period or the argument behind that, how do we normally address that type of issue?

**Mr Kaye:** As I mentioned, the committee is empowered to express its observations, opinions and recommendations, so if the committee believes there has been a violation of one of the guidelines, the committee in its report can simply observe that a violation has occurred, that the ministry in question was contacted, this is the response of the ministry and this is the committee's response to the ministry's response. So it can simply state what has occurred in terms of the exchanges between the committee and the ministry and the committee's reaction.

The committee also has the power to make recommendations regarding regulations, and this power, in terms of making a formal recommendation, has not been exercised that often. If, for instance, the committee felt that the guideline on statutory authority had been violated, for instance that a regulation or part of a regulation had been made without statutory authority, then the committee could recommend that the statute be amended to authorize the regulation as it was written, the committee could recommend alternatively that the regulation be amended so that it was in accordance with the statute, or the committee could simply observe that the regulation is not authorized by the statute and just leave it at that.

That happened, for instance, in the Third Report 1994, the last report on regulations from this committee with respect to a regulation made under the Ministry of Health Act, where the Ministry of Health agreed with respect to part of this regulation that, "there does not appear to be any authority in this regard," and the committee included that in the report but did not make a formal recommendation that said, "amend the regulation so that it is authorized by the statute, or amend the statute so that it authorizes the regulation."

So there are these differing approaches which the committee can take, whether or not it simply wishes to observe that there is this problem or to go further and make a formal recommendation. When a regulation is reported for being retrospective without clear statutory authority, generally the committee simply observes that, because the regulation has already been in effect for quite



a while by the time it reaches the committee and it's difficult to foresee what kind of formal recommendation could be made.

**Clerk of the Committee:** Just one additional procedural route that this committee may wish to choose: Any committee that tables a report may require, within 120 days, that the affected government ministries respond to the report, and I believe that response has to be tabled in the House. So that's always open to any committee to specifically ask for a response to any part of the report from any of the ministries affected by the report.

**Mr Mario Sergio (Yorkview):** Would this be then the appropriate thing to do at this particular stage?

**Clerk of the Committee:** It's totally up to the committee in terms of which avenue they wish to choose.

**Mr Sergio:** Is this the first time that the committee's dealing with such a case? There were no other cases previous to this one here?

**Mr Kaye:** Which case in particular?

**Mr Sergio:** The discrepancy between the ministry and yourself, the staff?

**Mr Kaye:** The one in this draft report?

**Mr Sergio:** Yes.

**Mr Kaye:** There have been previous reports where there has been a difference of opinion.

**Mr Sergio:** So this is not the first time then?

**Mr Kaye:** No, it is not.

**Mr Sergio:** How have the others been resolved?

**Mr Kaye:** Generally, it hasn't happened that often.

**Mr Sergio:** Have they been forgotten over time or there was a conclusion or how did they end up?

**Mr Kaye:** I guess there are two ways to look at it in terms of what's happened. One is what has the committee done, has the committee decided to still conclude that there has been a violation of the regulation? When the draft report is presented to the committee with the draft giving one view of the guideline being violated and the ministry saying, "No, it hasn't been violated," the committee can say, "We agree with the ministry that the guideline has not been violated," and take this out of the draft report. That's one way the committee can deal with it.

**Clerk of the Committee:** I think in the past we have discussed — although Philip would have to confirm whether we've done it, there have been a number of times where there has been a contravention of the committee's rules and it's been pointed out to the ministry and the ministry in effect has done nothing about it. We did have a discussion — I can't remember how many years ago — about what do we do with that, and I think one of the suggestions was that in the next report we would comment on what has actually happened to the regulations in the past report, and try to do a follow-up system to make sure that those that had actually contravened had cleaned up the regulation. I think that was something that was informally discussed, but I'm not sure if that was actually implemented in the report.

**Mr Kaye:** Yes. Even in the cases where the ministry agrees that there's been a violation, they may not take immediate action. If you look at the last committee report, the kind of violation where the ministries tend to act very quickly involves an error in the French version of the regulation, you will find that an amendment to the regulation is made very quickly.

In other cases, where the ministry agrees there has been a violation, it's not unusual to see a response that says, "The next time the regulation is amended, we will address the committee's concern."

In some cases, again referring to this last report, where the committee observes that part of the regulation has been made without statutory authority and the ministry agrees, the committee has not recommended that the regulation be amended and the ministry has not undertaken to change the regulation or the statute. So you simply have an observation that there is a problem, and no action is anticipated.

1120

**Mr O'Toole:** I appreciate the report — very thorough — and all the time you put into it. Looking at the statistical aspect of it, it's sort of legislation by regulation. Are we moving toward that kind of methodology? Even Bill 20 — I shouldn't say that openly — some of the guidelines or regulations are really where all the meat is; the rest is strictly the blossom on the tree. Are we moving — that's my question — in your sense, to legislation by regulation?

**Mr Kaye:** It's hard to answer that by simply looking at the number of regulations.

**Mr O'Toole:** Yes, that's true. It doesn't tell you the whole story.

**Mr Kaye:** There has been a reduction since 1994, but even assessing the extent to which there's legislation by regulation between 1986 and 1994 and the extent to which it currently exists, you would have to go beyond the number of regulations or the number of pages of regulations and assess substantively what the regulation is dealing with.

**Mr O'Toole:** With that, just a quick kind of interplay here, if I may, of questions. Every time a regulation is modified or amended, does it show up in the statistics?

**Mr Kaye:** Yes. In order to change a regulation, you have to make a new regulation.

**Mr O'Toole:** So it shows up in the statistics. It may not change anything more than a date or something like that.

**Mr Kaye:** That's right.

**Mr O'Toole:** Furthermore, the statistics in themselves don't really tell you the whole story. What I really would like to ask is, you tell me that somebody in your capacity, or maybe it's not you, reads all of these things and compares them to the actual statutes and their conformity with the regulation? Is this really what you've done to come up with this report?

**Mr Kaye:** Yes, there are —

**Mr O'Toole:** Holy Jesus. Do you like playing chess? Absolutely tedious. I can't imagine it.

**Mr Kaye:** All the lawyers in the legislative research service as one of their responsibilities have to review the regulations published in the Ontario Gazette for this committee.

**Mr O'Toole:** And their conformance to our nine —

**Mr Kaye:** Correct. Yes, to those guidelines.

**Mr Sheehan:** Regardless of the source? Just every regulation?

**Mr Kaye:** Every regulation has to be reviewed.

**Mr Sergio:** So could we request an answer from the ministry to expedite this matter here? Mr Chairman, I



would suggest that, if it's appropriate at this particular time.

**The Chair:** You're calling for a motion to pass? I have one final question and then you have — Mr Shea.

**Mr Shea:** No, I want to make a motion.

**The Chair:** The motion from Mr Shea I suspect may be the one that —

**Mr Sergio:** Mr Chair, I'd like him to place his motion before I place mine.

**The Chair:** Mr Shea, the motion?

**Mr Shea:** No, let him go ahead.

**Mr Sergio:** I was going to take the advice of the clerk and request an answer from the ministry to this committee here, and then take it from there.

**Mr Shea:** Come back and have some more discussions on this.

**Mr Sergio:** We would have to defer it. It would have to be deferred until we get the answer anyway.

**Clerk of the Committee:** Just to explain the couple of options, the request for a response from the ministry within 120 days would be after the report is actually tabled, so this report would still have to be adopted by this committee and tabled. I suppose one other route that we haven't discussed would actually be to not vote on this report yet and call in the ministry and have a discussion with the ministry, and then decide at that stage does the committee want to put a recommendation into the report or do we want to take it out of the report altogether. That would be open for the committee to do also.

**Mr Sergio:** Couldn't we defer it until we get the answer from the ministry instead of approving it and then get the answer?

**Mr Shea:** Since we're going to be cancelling next week's meeting, if we're going to defer it, why don't we demand every ministry be here and answer all the questions that everybody may have of them? I don't particularly want to hear them because I think the report's quite adequate. I think we should simply approve the report and table it and report it before the House, but I respect Mr Sergio's request for more information and if he'd like to have it, then I would suggest he may want to move deferral. That would supersede my motion. We could defer it and he could also add to his motion that he ask all ministries to be here to answer all questions.

**The Chair:** I think in deferring it — maybe the clerk could explain just what that would involve. I don't think it would be as onerous as —

**Mr Sergio:** I'm not really hung up on approving it or deferring it. I don't mind to approve it and still get an answer from the ministry.

**Mr Shea:** I don't want to see you without a chance to raise questions that you'd like to raise. I want to give you that opportunity.

**Mr Sergio:** On the other hand, it may be very difficult to get all the ministries in here and go through a number of questions.

**Mr Bisson:** That's not the issue. If we called them, they'd have to come.

**Mr Sergio:** I would rather have something in writing.

**Mr Bisson:** I particularly am supportive of Mr Shea. I think the report is fairly clear. I've had an opportunity to read through it. I think it's pretty concise. I wouldn't have any problem voting in favour of this at this point, but if you want to have the ministries come forward that's our right as a committee and they'd have to be here. It's as simple as that. I'm in the committee's hands. I really don't care; either way.

**Mr Sheehan:** I've made the motion to approve and report out to the House. Mr Sergio may make a motion to defer, which would supersede, and whatever else he'd like to do beyond that.

**The Chair:** Okay. We have a motion before the committee. I would ask the clerk for the procedure.

**Clerk of the Committee:** Just to clarify right now, I believe that the committee has agreed that we are going to deal with Mr Shea's motion that we adopt the report and report it to the House and then afterward, if there is another motion asking for a response, we can deal with that. Mr Shea has moved that the report be adopted and reported to the House.

**The Chair:** Any discussion on this motion? All in favour of this motion? Those opposed to this motion? I declare that motion passed.

Is there a subsequent motion?

*Interjection.*

**The Chair:** Do you wish to make a motion to that effect?

**Mr Sergio:** I'm satisfied with the presentation, but I would like to have a response addressing some of the concerns from the ministry, if it's appropriate; otherwise we'll let it go.

**Mrs Pupatello:** Specifically the Ministry of Finance?

**Mr Sergio:** Specifically.

**The Chair:** All in favour of this request of a written response from the ministry? Opposed?

Before we adjourn, I would point out that this draft report is marked "Confidential; for committee use only." I don't think we need this handed back. We're all MPPs here. As also indicated, there is no meeting next week. Business closed.

*The committee adjourned at 1128.*











## CONTENTS

Wednesday 29 May 1996

<b>City of Ottawa Act, 1996, Bill Pr34, <i>Mr Grandmaître</i></b> .....	T-111
Bernard Grandmaître, MPP	
Edythe Dronshek, legislative counsel, city of Ottawa	
David Saint, project officer, department of engineering and works, city of Ottawa	
<b>City of Ottawa Act, 1996, Bill Pr47, <i>Mr Grandmaître</i></b> .....	T-114
Bernard Grandmaître, MPP	
<b>City of Ottawa Act, 1996, Bill Pr48, <i>Mr Grandmaître</i></b> .....	T-114
Bernard Grandmaître, MPP	
David Saint, project officer, department of engineering and works, city of Ottawa	
<b>Review of 1994-95 Regulations Report</b> .....	T-115

## STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

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\*Shea, Derwyn (High Park-Swansea PC); parliamentary assistant  
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T-12

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**Official Report  
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(Hansard)**

Wednesday 19 June 1996

**Journal  
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Mercredi 19 juin 1996

**Standing committee on  
regulations and private bills**

**Comité permanent des  
règlements et des projets  
de loi privés**



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LEGISLATIVE ASSEMBLY OF ONTARIO  
STANDING COMMITTEE ON  
REGULATIONS AND PRIVATE BILLS

Wednesday 19 June 1996

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO  
COMITÉ PERMANENT DES RÈGLEMENTS  
ET DES PROJETS DE LOI PRIVÉS

Mercredi 19 juin 1996

*The committee met at 1007 in committee room 1.*

TOWN OF RICHMOND HILL ACT, 1996

Consideration of Bill Pr61, An Act respecting the Town of Richmond Hill.

**The Chair (Mr Toby Barrett):** Good morning. Welcome to this regular meeting of the standing committee on regulations and private bills for today, Wednesday, June 19, 1996.

Our first order of business is private bill 61, An Act respecting the Town of Richmond Hill. I see both the sponsor and applicants have approached the witness table, and I call on MPP Frank Klees for some brief comments by way of introduction.

**Mr Frank Klees (York-Mackenzie):** I had the pleasure of moving first reading of this bill on May 29 this year and I'm pleased to represent the bill before this committee this morning. I'd like to introduce to my immediate right Mr James Sidlofsky, assistant solicitor for the town of Richmond Hill. With him is Mr Richard McGee, manager of bylaw and licensing enforcement, who will be speaking to the bill. I'll ask them to provide the details regarding it.

Just in brief, this bill allows the council of the corporation of the town of Richmond Hill to pass bylaws requiring owners or occupants of private property to cut the grass and weeds on their property when they are more than 20 centimetres high. The purpose of this bill is that the current process they have to go through is extensive and provides for a great deal of red tape and delays.

I ask that the committee give serious consideration to giving speedy approval to this so that we can move it through the House and get on with cutting some weeds before the fall.

With that, I'd like to pass on to Mr Sidlofsky the opportunity to make his comments.

**Mr James Sidlofsky:** My comments will be brief. Currently the town deals with the situation of lawn grass and weeds through the property standards provisions of the Planning Act, section 31. The act has a process in place for dealing with property standards matters ranging from things like lawn grass and weeds to buildings that are in the process of caving in.

The process can be fairly lengthy. The first step is to issue a notice of violation under section 31 of the act. Following the issuance of the notice of violation, there's an opportunity for the owner or occupant of the property to contact the municipality and address those issues. In the event that they aren't addressed, an order is issued. The applicant then has two weeks to appeal that order to the town's property standards committee. There is a

further appeal process that involves a judge of the Ontario Court (General Division).

Following that, when the order is confirmed on appeal or is final and binding because it hasn't been appealed, the municipality is eventually entitled to enter the property and do the required work. By the time that process has been undertaken, that's approximately two months. In the event of an appeal, the process is longer.

The town of Richmond Hill has some concerns about entering on to private property, so the process we use is slightly different in that we will prosecute under the terms of the Planning Act. That involves the arrangement of court dates, the setting aside of time in the court with a justice of the peace, the use of time by the town's prosecutor and the town's administrative staff to prepare the material for court and ultimately the loss of approximately half a day on the part of the bylaw enforcement officer or, in this case, the property standards officer who would have to attend in Newmarket court to address the charges.

As has been done by six other municipalities in the province, we would like to shorten that process. We're asking that this legislation be enacted which would allow the town to pass bylaws providing 72 hours' notice for the cutting of grass and weeds that exceed eight inches in length. This is consistent with the other municipalities, including North York, Brampton and Etobicoke, that have similar legislation.

The town is certainly not interested in running around with lawnmowers cutting people's grass as soon as it hits eight inches. There is a 72-hour notice period provided for in the draft legislation that will allow the owners or occupants to contact the municipality and make arrangements to cut their own grass if they're inclined to do so, but it will ultimately save time in the court process and in the administrative process in dealing with these problems.

We have received copies of two letters from the clerk of the committee containing objections to this proposed legislation. I'd like to address those briefly. If the Chair wishes, I'd be happy to answer any questions about the specifics of the legislation. Specifically, if the notice isn't responded to within 72 hours, town staff would be empowered to enter on to the property and cut the long grass and weeds and charge the amount spent on that work back to the owner or occupant of the property.

There is an offence section as well in the draft legislation. I believe the committee has before it a motion to strike subsections (7) and (8) of the draft which was introduced to the Legislature. Those deal with instalment payments. That's a fairly technical matter, because the



Municipal Act provides for the collection of these moneys by instalments.

The second item that would be deleted is the limitation of the corporation's liability. I understand there were some concerns on the part of Ministry of Municipal Affairs policy staff as to the inclusion of that subsection. The town doesn't object to those deletions.

Three subsections are being added. Two of them create offences — one for individuals, one for corporations — in the event that there is obstruction of town staff when they enter on to the property to perform the work; secondly, in the event that there is failure to comply with a bylaw passed under this draft legislation. Finally, there is an amendment in that there would be a new subsection (9) providing that municipalities' rights or duties with respect to highway rights of way are not affected by anything in this private legislation.

With respect to the two letters that have been received, I will deal with those if the Chair wishes me to at this point. If there are questions about the mechanics of the legislation, I'd be happy to address those.

**The Chair:** Thank you, Mr Sidlofsky. Mr McGee, do you have any comments before we go to the committee for questions?

**Mr Richard McGee:** We're not a proactive enforcement agency in Richmond Hill. Our staff is too small for proactiveness. We respond to complaints. This legislation would allow us to deal with complaints and expedite the time frame where we do receive complaints. We're not going to go around and look for grass that's longer than eight inches and then deal with it through this bylaw. We'll only deal with it when we receive a complaint. That's the purpose, essentially, of this act.

**The Chair:** I thank the applicants. Are there any other interested parties in the committee room? Seeing none, I now ask the parliamentary assistant for municipal affairs, Mr Shea, for his comments on behalf of the government.

**Mr Derwyn Shea (High Park-Swansea):** The request by Richmond Hill that's been put forward by Mr Klees is quite in order. The ministry and the government are quite prepared to accept it with the amendments the deputant has referred to.

For the benefit of the committee, I remind us that a number of municipalities have the same kind of legislation currently. I have citations for North York, Etobicoke, Brampton, Ottawa, York and Toronto, for example.

Our suggestion in the ministry is that subsection 1(7) — it's more usual for large capital expenditures and not for operational matters of a minor nature, which is why the ministry is saying that should be struck, and you see the deputation agrees to that. Subsection 1(8) to limit liability: The ministry suggests that is better served by the municipal reform initiative that's going on right now and that should be tabled with the House perhaps by the end of this term or the beginning of the next term. That will be brought together as part of the total government administrative initiative in that regard.

The government first of all supports the overall policy thrust of the bill and suggests that we should support it with the recommendation that we delete subsections 1(7) and 1(8) and that we substitute them with new subsections (7) and (8) and (9).

**The Chair:** I now call for questions from committee members.

**Mr Dave Boushy (Sarnia):** I have no problem with this act. However, suppose an owner goes and buys 20 acres at the edge of town, away from residential areas, away from traffic. There's only one home nearby, and the homeowners complain all the time that they want the 20 acres cut. Don't you think it creates hardship for the owner of the 20 acres that he has to cut the grass all the time if there's nobody around but one complainant?

**Mr Sidlofsky:** Generally municipalities have discretion as to prosecutions. I acknowledge certainly that we act on a complaint basis. However, there remains a certain amount of prosecutorial discretion in the process. It may be possible in the case the member has raised to reach some sort of compromise for the cutting of a portion of the property, at least a portion that abuts the one owner who may be concerned about the long grass. I suggest there are ways to deal with that in the context of this legislation.

The complaints we have had are generally with vacant lots in builtup residential areas. There are some rural areas in Richmond Hill. The entire town isn't built out at this point. However, many concerns relate to the one- or two-building lot area that's surrounded by other residential development and is simply sitting there vacant. There are also occupied residences where the owners aren't maintaining their property. Certainly for the example the member suggested, I suggest there are ways to deal with that within this legislation.

**Mrs Sandra Papatello (Windsor-Sandwich):** Very quickly for the table, subsections (7) and (8) have been struck. Is that correct?

**Clerk of the Committee (Ms Lisa Freedman):** If that amendment is carried, that would be the effect, and adding a new subsection (9).

1020

**Mr Jean-Marc Lalonde (Prescott and Russell):** I was surprised when I read Bill Pr61, because I thought the municipality had the full control to have a bylaw in place under the property standards section. In my own town, how we were doing it was advising the owner of the land, not the tenant, that he had five days to cut the grass, and if not, we would send municipal employees to cut it and send him the bill, and if he didn't pay, we'd add this to the municipal tax bill. Isn't that the actual procedure at the present time?

**Mr Sidlofsky:** The town's procedure certainly is at this time to deal with these matters through the property standards section of the Planning Act, section 31. We are required, though, under that section, to issue a notice of violation. If the notice of violation isn't complied with — and the owner or occupant does have a certain length of time; it's not specified in section 31, but there is a length of time which must be given to the owner or occupant to respond to that notice. Following that, an order is issued. Ultimately, if an order is issued and isn't complied with, the municipality does have the authority under section 31 to go in and do the work.

To use a larger example perhaps, for a lot with debris on it, construction material on it, the municipality would have the authority to go in and do that work, but under



section 31 that is only after a process of the issuance of orders and the opportunity for an owner or occupant to respond to the notice and to appeal the order.

The town of Richmond Hill's practice is to charge individuals once an order has become final and binding. That takes us into the court process. That can be a number of months, even to set a date in court for that prosecution, simply because the town of Richmond Hill is only assigned a certain amount of court time. I believe now it's half a day a month in Newmarket court. That doesn't leave a lot of opportunities for trial open, which means that at the end of the process, it's the next growing season.

**Mr Lalonde:** When I look at subsection 1(2), "72 hours after the giving of the notice," and at subsection 1(5), "If the owners or occupants have failed to comply," what really scares me is that at times the owner is not aware that the grass hasn't been cut. By the time you get hold of the owner, the owner could get the surprise of getting a bill for having the employees go down to his property to cut the grass.

I had an example just recently on the hydro bill. When a person sold his house, he had a lien on his house that he wasn't aware of at all. In this case, if the owner is from out of town, by the time he gets the notice in the mail that if he doesn't comply with the law the employees have the right to go on his property and cut the grass — I think 72 hours is a little too short. It should be a minimum of five working days.

**Mr Bruce Smith (Middlesex):** Unless there are further questions from the committee, and given what I've heard from the parliamentary assistant and the applicants, I certainly have no objection to the bill, subject to the following amendment, and I would like to put forward a motion at this point in time, if I may.

**The Chair:** I do have a question from Mr Wood.

**Mr Len Wood (Cochrane North):** As a follow-up from Mr Lalonde, I'm wondering about the enforcement. For example, if somebody's away on vacation for a month or whatever, when he comes back is he going to find that somebody came and cut his grass and he's got a bill in the mail? Or there may be other reasons. If it's properly enforced, I wouldn't have much concern about it. But I'm concerned that if there are battles or arguments between neighbours, all of a sudden somebody's out there with a measuring tape saying, "Here's a chance to retaliate."

It's very similar to bylaws some towns have that the sidewalk must be shovelled so many hours after a storm, and I know for a fact that there is retaliation between neighbours and businesses and one thing or another on that. I'm just wondering if we're going to create a situation of that kind. It sounds nice to be able to say that all the lawns are going to be cut and any abandoned lots are going to be cut and the grass is going to be nice, but what is this going to create in that community?

**Mr Shea:** I recognize the concerns expressed by Mr Lalonde and Mr Wood. I'd just remind the committee that the 72 hours is consistent with all the other legislation in place for all the other municipalities, so this keeps it right on the stream. And one would expect that municipalities would exercise some degree of sensitivity and

awareness to the particular circumstances, and most property standards officers and municipal officers have been pretty diligent in that regard.

**The Chair:** Are there any further questions to the applicants or to our parliamentary assistant? Hearing none, are the members ready to vote? Okay.

Before we vote, I wish to make note that we have some distinguished visitors to this committee, a delegation of Ethiopian parliamentarians who were suitably introduced previously in the Legislature. We welcome you to our committee.

We are voting on Bill Pr61, An Act respecting the town of Richmond Hill. Mr Smith, you have indicated you have an amendment to section 1.

**Mr Smith:** I move that subsections 1(7) and (8) of the bill be struck out and the following substituted:

"Offence

"(7) A person is guilty of an offence if the person,

"(a) obstructs or attempts to obstruct an official named in the bylaw or any person acting under the official's instructions in the exercise of a power under this section; or

"(b) fails to comply with a bylaw passed under subsection (1).

"Same

"(8) If a corporation commits an offence under subsection (7), every director and officer of the corporation who knowingly concurs in the commission of the offence is guilty of an offence.

"Highway right of way

"(9) Nothing in this section affects any right or duty of the corporation with respect to any highway right of way."

**The Chair:** Any discussion on this amendment? Hearing none, shall the amendment carry? Carried.

Shall section 1, as amended, carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall this bill, as amended, carry? Carried.

Shall I report this bill, as amended, to the House? Agreed.

I wish to thank the sponsor and the applicants, and I now declare this order of business closed.

1030

## LIONS FOUNDATION OF CANADA ACT, 1996

Consideration of Bill Pr58, An Act respecting the Lions Foundation of Canada.

**The Chair:** Our next order of business is Bill Pr58, An Act respecting the Lions Foundation of Canada. The sponsor is Gary Carr, MPP, and I ask the sponsor and the applicants to approach the witness table.

I would remind the committee that this private bill was discussed at considerable length on Wednesday, May 15 of this year, and at that time committee agreed to defer this bill to be reconsidered at a later date. This is now the business before us. I'd ask the sponsor and the applicants to again present brief comments on this bill.



**Mr Gary Carr (Oakville South):** The delegation this morning will be coming forward with some information. With us this morning representing the town are Councilor Kathy Graham, Ron Brown, who was here before, as well as Beatrice Howell.

Kathy is going to give us an update of what has transpired. The mayor, unfortunately, had a death in the family and has had to go back to England, but Kathy is very familiar with the situation. What we hope to do today is give you a bit of an update on this situation. We're not going to go through the validity of the issue; Ron did that to some extent last time. But Kathy's going to give some additional information which we think will be helpful to this committee.

**Mrs Kathy Graham:** Good morning, Mr Chairman, members. Thank you for receiving us this morning. I bring regrets from Mayor Mulvale. However, I'm fairly familiar with the situation, as the institute is smack in the middle of the ward I represent. I will try to be succinct. I realize you have reviewed this previously, so I'll try and get to the crux of the matter immediately.

In a brief background, the Lions Foundation in 1983 was tax-exempt. Ten years later, in 1993 when they began to put on an addition, they went to the assessment board and found that the assessment board was now not permitting such exemptions. This put them in a very difficult position.

I'm sure you know that the Lions Foundation provides a very unique service in providing seeing-eye dogs, special-skill dogs and hearing-ear dogs. They are the only foundation institute of this type in all of Canada. Their success story, as I think Mr Brown alluded to the last time, results in 195 persons no longer receiving welfare assistance, becoming independent and being able to live full lives in our community.

I'd like to point out to you that the town of Oakville and the region of Halton both support the exemption and that the people of Oakville support it as well; there has been no call to the town hall in any indication whatsoever of lack of support for this item.

I would like to focus on two issues I picked up, and I apologize if I'm repeating anything. What I have done is to read the Hansard transcript and try to pick up what I thought were the issues identified previously, and I've picked on two.

Certainly one concern would appear to have been with precedent-setting. I would like to assure you that this is not a service club exemption. This foundation is such, as I say, that it serves all of Canada, but 70% of its clients come from the province of Ontario. They receive support: They have a community-charity partnership that exists throughout Canada, but again mostly in the province of Ontario.

There is nothing that can compare with this institute and it is not solely supported by Lions clubs. Lions clubs supply only 23%; the balance, as I say, is covered by corporate sponsorships.

The other question clearly is the question of the board of education. Linda Glover, the chairman of the board of education, met with the mayor and MPPs on June 10, and it became clear at that meeting that the previous November when the board of education had turned down the

application, the board was under the misunderstanding that it was collecting taxes on this piece of property at that time. They have never had taxation from this piece of property. It has always been exempt. That was news to them. They thought they were giving up something. Well, you can't give up something you've never had.

We have time constraints. We have had individual meetings. The mayor has had them with the chair of the board and with various trustees, as well as correspondence. The board of education was in the throes of its budget deliberations and therefore this item has not come back to them for reconsideration.

I understand that you have a handout from the board of education. That material refers to the November 1995 decision; as I say, that decision was made on misinformation that these taxes were presently being collected, which they are not.

I think it's important to note as well that in the overall scheme of things for the board of education, the number of dollars being spoken of is very small, and there's a good partnership between the municipality and the board of education. We are presently seeking at the OMB to have assessment changed where industrial properties are being used for farm land; they are trying to be assessed as farm land when indeed they are zoned for industrial. The board of education, which will not be present at the OMB hearing and will be represented solely by solicitors from the town of Oakville, the board of education alone, if we win that appeal, will receive \$200,000 without having to expend any money at all to achieve that. So we do try to work closely.

But we feel very strongly that the Lions Foundation is a very exceptional case, that it deserves the support of the municipality, the region and the province in order to be successful. This morning we would ask you, please, to support Gary Carr's private member's bill.

**Mr Carr:** I'd just like to add quickly that we've been through this now for quite a bit of time, having spoken with the Lions people. Without getting into too much detail of the worthwhile cause of the organization, this is a bill that very clearly should be passed.

**The Chair:** I would ask for any further comments from other applicants at this time before we go to questions.

**Mr Ron Brown:** At this time, I think anything I might say would be totally repetitious.

**Mrs Beatrice Howell:** I'm only here really to answer any questions, legal or technical questions that could arise.

**The Chair:** Are there any other interested parties to this bill? Seeing none, I would now ask the parliamentary assistant for municipal affairs, Mr Shea, for comments on behalf of the government.

**Mr Shea:** First of all, on behalf of the government we obviously express our condolences to Mayor Mulvale, and we'll hope our member Mr Carr will express that for us and make sure she knows. I know she would like to be here particularly to deal with this issue. It's one of intense interest to her and she deserves a great deal of commendation for that, and it's with sadness we learn of the family difficulties.



As I said the last time we dealt with this, there is no doubt that this is an extremely worthwhile project. I think there's no member of this committee, and it doesn't matter what side we're on, who would say otherwise. It is an extremely fine project. I know our ministry and the government would be puzzled by the reluctance of the school board to recognize that in the way it would normally recognize it in other settings by forgiving or writing off its portion of the taxes. We're puzzled by that.

But the government still continues in its position that the existing motion as it's brought before us has a problem for us. The problem involves the principle of who is responsible for which budget. The issue, quite simply put, is that the municipality is at this point calling upon the provincial government to dispense with taxes that are the rightful domain of the school board to determine. That school board, duly elected and democratically elected, has to determine its position in the face of its taxpayers, its ratepayers, the people who vote the trustees into office, what it will or will not do to exercise its responsibility, the same way that principle applies to the city councillors and regional councillors.

1040

They have determined that this is an extremely worthwhile project and deserves to have its tax exemption granted. That is a position they've made very clear time and time again, and one I personally endorse and support. But the government also is in the position of reminding us that it does not override lightly the rights and responsibilities of elected governments, and the Halton school board is one that, at this point in time, still stands with a motion that says they are not prepared to grant tax exemption for their portion of the taxes on this property.

We have had some rumours — and I say nothing but rumours — that have come to us indicating that the school board may in fact be rethinking that position. If that is the case, what is suggested is a series of amendments today that would in the first instance allow the tax exemption to immediately be applied in so far as it relates to the local tax and the regional taxes. In so far as the Halton Board of Education tax portion is concerned, that would be amended and it would be left out, and that would be left entirely in the hands of the school board to determine what it would do in terms of its taxes and whether it would grant exemptions or not.

That amendment would certainly sit agreeably with the government, and the ministry would be quite prepared to support that amendment. At the very least, it would get this matter moving forward and rightfully would bring that last portion of the issue before the school board for its resolution. If there is the support that the deputation's chairman has indicated is there, certainly in Oakville and beyond, and it is an area that I know is to be taken quite seriously because of the good works of this institute, I would suspect the Halton school board may wish to revisit this with some speed.

In short, the government's position is still firm in terms of the principle of accountability of responsibility of budgets at each level. One government should not be capable of dealing with another level of government's budget. We respect the right of the municipality and the region to say they will defer or exempt their portion of

the taxes. We also respect the right of the board of education to be diligent and accountable to its ratepayers, who are often one and the same. Still and all, the trustees will have to be accountable for that.

If the amendments are placed and if the amendments carry, the government and the ministry are quite supportive. If the motion stays just as it is right now, I continue to exercise that caution and to advise the committee that the ministry has concerns about it.

**The Chair:** We now begin a rotation of questions from the committee either to applicants or the parliamentary assistant.

**Mr Terence H. Young (Halton Centre):** Actually, I wanted to make a statement, if that's all right, Mr Chair.

The contribution the Lions Foundation makes to the people of Ontario and all of Canada has been well documented. I was not sitting in committee at the last meeting. I've been through the Hansard report.

The parliamentary assistant has talked about what level of government is responsible. The fact is that in this particular case the Halton Board of Education, as in some other cases, has not been responsive and, in my view, has not been responsible to the people's wishes.

It's a board that has some problems. In March they fired 572 teachers; in May they hired back 572 teachers. Five members of the board, including the chair, are currently being sued by the taxpayers' coalition for a conflict of interest.

It's a board that failed to recognize the tremendous contribution of the Lions Foundation and the crucial needs of blind and disabled people across Ontario. I believe when they voted on this matter, they didn't even realize what they were voting for. They thought they'd be losing revenue when they never had this revenue all along anyway.

So we have a decision to make, and I can tell you, the members of provincial Parliament from Halton support the town of Oakville and support Mr Carr in his private member's bill. We represent the same people that the school board does. We represent the same people the regional chair does, and the mayor of Oakville. I know the people would agree with this bill and I know they would agree that the school board made a mistake. In the name of these people, in the name of fairness, in the name of fairness to the blind and disabled people across Ontario, I support the bill as originally read on May 6.

In the previous meeting, the parliamentary assistant talked about protocol of the committee and the principle of democracy. There's another principle at stake here, which is representing the people of Halton, which is our duty. They're the ones who pay the taxes, and I believe they would approve of this bill.

I'd like to move now that the committee pass this bill as read on May 6.

**The Chair:** I have further questions. We won't entertain a motion at this point, because we go through clause-by-clause for amendments.

**Mrs Pupatello:** I have a quick question. Now that you know the school board is aware that they were not collecting taxes from 1984 through 1994, have they changed their position in terms of support of this project?



**Mrs Graham:** As I indicated, we met with them on June 10, and they were surprised to discover that they had not been collecting these taxes. I was not present at the meeting but Mayor Mulvale was and she explained to them this issue, and she feels there is a new understanding. We expected that this would go before the board for reconsideration. As I understand it, and I stand to be corrected, I believe the board of education meetings now will cease until fall and we will probably not be able to get before them to discuss any kind of reconsideration until then. But the letters that were sent out, the discussions that were had, clearly straightened out the misinformation they had. There was no question that they understood that they were collecting these taxes and were giving up something when indeed they'd never had it. When they voted in November, that was the understanding.

**Mrs Pupatello:** What is the financial significance between today and the fall in being able to address the school board with this new information? What is the financial difference to the organization?

**Mrs Graham:** Maybe Mr Brown can help me with this. Having put a new addition on to the school to accommodate special-skills dogs and the hearing-ear dogs, and this is what brought this issue forward in 1993, now a question of development charges etc has come up. I'm not sure, Mr Brown, at this point — maybe you can help us — whether you've had to pay those or are waiting in abeyance of those? What is the situation financially?

**Mr Brown:** Oh, no. They are paid now.

**Mrs Graham:** So it would be a case of a refund to them.

**Mrs Pupatello:** A rebate?

**Mrs Graham:** A rebate.

**Mrs Pupatello:** As a matter of course, I would be supportive of the bill. I think there is a move afoot that more and more responsibility be put on community agencies like yours to do more with less, and the charity field is becoming much more crowded, your fund-raising capabilities are being strained, and you're going to have to find very many more creative ways to raise money. One of those ways is to lessen your expense, and this hopefully would at least maintain the level of expense in terms of taxes. I would be supportive of the bill regardless.

I would only hope that if it didn't matter, regardless of the outcome of the bill today, the committee might be prepared to receive it again in the fall, giving you the opportunity to go back to the school board — if the mayor is on side, the kind of political pressure you can exert on those elected officials of the school board. Even if the bill doesn't pass through this committee today, you could come back with it and say you now have school board support. It's interesting that you actually are an educational institution, and the school board ought to give that due consideration when they're deliberating in the fall. But I would be supportive regardless.

**Mrs Graham:** Thank you.

1050

**Mr Len Wood:** I agree with about 90% or 95% of the comments that Mr Young has made. We're talking about

a training school for guide dogs. I have some of those in my riding, and it makes the people very productive in society, being able to get around without having to have somebody else with them at all times, and they become more a part of society.

I was at the presentation that was made here on May 15. When Mr Carr came over and consulted me about it, I said, "I want to read more." I am disappointed that the Halton Board of Education hasn't dealt with the issue from May 15 until now, because it seems like a very good bill that everybody should be supporting, and for them to stay in the way and send a letter dated June 18, saying that the board does not support the tax exemption for this property, based on information they had that might not have been right, because as the presentation has said, they thought they were getting money and they're not actually getting it — so for them to continue to take the same position, I would be supporting this bill as is.

Just going back one further, when I said I support 90% or 95% of the comments of Mr Young, maybe the board is retaliating against Snobelen, who created the crisis, and is saying, "We're not going to agree with anything that is going on." Maybe that's it, because we know that we like to blame the school boards for laying off teachers and firing secretaries and cleaners and this and that, but in reality it was a crisis that was created by the Minister of Education, Mr Snobelen. That situation still hasn't been resolved. But the bill is a good bill and if there is a motion to support it as is, I will be supporting it.

**Mr Boushy:** I would also support this bill. As was pointed out, this is not a service club. We're not going to be having private bills across the province every day. This is a special-needs program and our party is committed to the physically challenged people, to help them out.

I'd just like to point out one more thing. If the municipal council has endorsed this, and the board of education has not endorsed it, it stands to reason that, in my opinion, municipal council has a much broader representation than the board of education with regard to the responsibility for its citizens, including the board of education. They're elected right across, not only to deal with the board of education; they collect taxes for the board of education. They're responsible for collecting taxes. They get the blame if the taxes are high. So if I had a choice between support of municipal council or the board of education, I would certainly support the municipal council because it has a broader representation to the people.

The amendment is quite a bit watered down from the original bill. It couldn't be accepted, as far as I am concerned.

I'll support it.

**Mr Frank Sheehan (Lincoln):** Firstly, I'd like you to understand that I strongly support your Lions group as a group, never mind your school for the blind; I also support that. But the nature of the organization is not the question here, all right? The nature of the organization is irrelevant. The facts are that the duly constituted body who's elected by the population of your community has



the authority to do or not do as it sees fit, according to its bylaws. You accept that, would you, or would you not?

**Mrs Graham:** Yes, of course.

**Mr Sheehan:** Okay. If a similar thing developed and we were to come on and try to overrule a decision of the town council, it would be viewed with considerable objection, wouldn't it? Because the territories are clearly delineated in the law and we must respect them.

As much as we would like to support you, I can't, because then we're setting a very serious precedent. The fact that it's the Lions school for the blind training the dogs is neither here nor there; we're setting a very dangerous precedent that the provincial Legislature would in fact overrule and intrude in the affairs of a lower level of government. So I can't support it. I would love to support it; it's a very worthwhile cause. But we're talking about principle, and principle exceeds the worthiness of the cause that you're espousing.

If I understand it correctly, and I'd like to ask the parliamentary assistant, Mr Shea, what you're proposing here is to approve the exemption requested as it relates to the region and as it relates to the towns and the various municipalities involved, and if at some point in the future the school board authorizes or requests — whatever the term is — the exemption, this legislation, as amended, would in effect facilitate that and there would be no further reason to come back here. Is that correct?

**Mr Shea:** If the issue is kept very simply and cleanly before this committee, we have a choice of amending or not. If we choose to vote in favour of the bill that's placed before us today, that will mean that we are saying, as you have pointed out, that notwithstanding the comments of the board of education, we have decided that you will provide a tax-exempt status. If we vote against the bill, with all of the kinds of heavy-heartedness that you have pointed out in your comment, it will then leave the status as it is now, with the council and the regional municipality having said they will tax-exempt their portion of the tax base, and it will leave the school board to make its decision whether it will or will not grant the exemption. That would be the effect of voting against the bill today.

**Mr Sheehan:** What do the amendments achieve?

**Mr Shea:** There are no formal amendments before us right now.

**Mr Sheehan:** But the ones that are suggested.

**Mr Shea:** I know there was some discussion that the deputant might suggest some amendments, but at this point no amendments are put forward. In point of fact, if we vote against the bill, it would be almost as though the amendments had been put; the effect would be almost the same. For that reason, I think the deputant has indicated no need to put amendments forward. You simply decide whether you vote for or against the bill.

We understand the consequences of the vote either way. If we vote in favour of the bill, there is another sidebar to that which I think probably we need to consider, but I'm sure all members have, and that is what the financial impact might be not only on the school board, when it has said it doesn't want to do it, and then in terms of what the implications might be in terms of the school board then turning back to the province and

saying, "Is there an impact on our grants from you as a result of that decision?"

**Mr Carr:** To Mr Sheehan, I think it's important to note that all three staffs originally made recommendations not to do this. Staffs being what they are, they talked similarly to our ministry. In the case of the region and the town, they overruled the staff. In the case of the school board, it simply came forward and they rubber-stamped — exactly. Without airing our dirty laundry in public, unfortunately that happens too often.

What I would implore this committee to do, and particularly the government members, is to look at the merit of it, because what we would be doing is the same thing. Notwithstanding some of the fine comments made by the ministry, each of us should look at the bill, as I have done, and I've struggled with the same question you have. What we will be doing is allowing a good project like this — there are severe financial constraints on the Lions Club as it is.

Quite simply, to put in a nutshell what happened, when it came to the school board, the staff said, "This is what you will do," and they rubber-stamped it. To their credit, the chair and the mayor and the elected officials were a little bit more open. Staffs being what they are, they gave the same recommendations and probably the same eloquent — probably not as eloquently as Derwyn did — reason for not proceeding. What I ask you to do is look at the merits of it, because I'm like you, I've struggled with this as well, but I want to tell you, having looked at it, this is a bill that should pass.

1100

**Mr Sheehan:** Can I respond to that?

**The Chair:** A supplementary question?

**Mr Sheehan:** I guess so. I just can't let that stand, because the principle is not the worthiness of this cause. It's that simple. It has nothing to do with whether or not we're in favour of training animals that provide a wonderful service. Everybody accepts that. I don't vote against this bill with a positive attitude, but we must respect our laws, we must respect our institutions, and the laws are such that that organization, duly elected, has the right to do what it did, whether you perceive it as right or wrong. It's a duly constituted, elected body and it's not this committee's place to override it, because it's fundamental to the whole system of governance we have in the province. That's why I can't support it, Gary.

**Mrs Graham:** I just want to respond to a couple of questions that Mr Sheehan put forward. I think we felt we were on the right track. We had an exceptional circumstance, and as the senior level of government we felt it appropriate, since you provide the financial support and basically the rules under which the board of education works, that we should come to you as our course of appeal to have this matter dealt with, in view of the instances that Mr Carr has referred to.

I don't believe the board of education would have a case to come back to ask you about a grant's impact, because as I understand it, in formulating the grants, it's based upon taxation presently collected. They do not presently collect from the Lions foundation, so it shouldn't have an effect on their grant situation.



I really feel in many ways, with all due respect, this is a minor matter that should not have reached the point of this table. Frankly, in view of the dollars involved, the significance to the foundation — when you look at the dollars that are involved, this particular circumstance should never have taken place. It should not have taken up your time. But we're here because you are our court of appeal and that is why we have asked Mr Carr to put forward this bill and ask for your support today.

**The Chair:** Just to clarify information on the grant reference, Mr Shea?

**Mr Shea:** Mike Riley from education I think is the appropriate staff person who has the specialty in that regard. Perhaps I'll ask him to respond.

**Mr Michael Riley:** Basically, the tax situation would depend on the assessment of the property, whether the property has been properly shown on the assessment roll for a period of years. It's not unusual for properties or parcels of land to be shown as taxable when they shouldn't have been, or vice-versa. I gather — I'm surmising — this is what has happened in this case. The point remains that I gather the property does not come within the general exemptions from taxation provided for under the Assessment Act. That, of course, is why you're here today, to seek a private bill to provide in a sense a particular exemption for this property.

On the issue of the grant impact, my information is basically that we're looking at \$26,000 per year in school taxes, of which \$18,000 — I use the word "loss" advisedly; you're in a position to determine whether this is a true loss or not. But the loss in taxation would mean that under the general legislative grants, the province would pick up \$18,000 of that, and \$8,000 would be picked up by the Halton board in terms of a burden resulting from this loss of assessment. As I say, I use the term "loss" advisedly.

**Mrs Pupatello:** I do think that at the end of the day everyone recognizes that this is a rare instance, and the crux of the matter becomes whether in fact the school board will be losing revenue as a result of this. I think it is arguable — and whether that's actually going to have to become litigated or not is the question; hopefully not — that indeed the board is not losing revenue as a result of this exemption. On that basis, even our red tape commissioner could feel comfortable in knowing there isn't going to be a negative impact on that school board because of this rare instance.

On the issue of a higher level of government imposing this kind of outcome on a lower-level or lower-tier elected official, I submit that in the passing of Bill 26, when we discussed the issue of amalgamations, for example, we will have instances where elected officials of towns, townships, cities, villages who do not wish to be amalgamated will be, regardless of what the elected official at a lower level will want, and that will be by the stroke of a pen of a minister at a higher level. So your principles, unfortunately, have already been broken if that's an issue.

But I think, back to this issue, the crux of the matter is that the school board would be in a position to say it will not find less money as a result of this exemption, and that ultimately has to be decided today. That is the

issue, and on that basis you could feel comfortable supporting the bill.

**Mr Smith:** At the outset, having been through the initial committee hearing on this issue, I have to say I'm extremely disappointed that there was not some resolution brought forward locally. I understand the comments you made about time constraints and the board's focus on budgetary problems. I still have a difficult time understanding, in an issue that is as important as this to Oakville and community, how the three parties and perhaps my own colleagues could not have caucused this issue and brought resolution to the matter. From the outset I had some deep concerns about that because I accept the sincerity by which you have made the presentation, and Her Worship, and fully appreciate the merit of the work the foundation does.

As a matter of clarification, I was prepared to make a motion to introduce amendments but, through you, Mr Chair, to the clerk, I want to be very sure about this. In essence, the bill belongs to the applicant, and any amendments I would propose are really amendments of the applicant. I would have to say it's not evident today that the applicants are prepared to introduce those amendments, and from that perspective I have some reservation about introducing those amendments without their concurrence. If that is the scenario, in essence what we are doing is either voting in favour of the bill as presented and printed, or alternatively, voting against it and not accepting it. Is that the scenario we're faced with presently?

**Clerk of the Committee:** In essence. I'd just like to clarify a few things. Every member has the right to move an amendment. I guess that's the bottom line. In private bills generally, amendments are usually agreed upon between the applicant and whoever they happen to be negotiating with, so in 99.9% of the cases the applicant agrees with the amendments and that's why the amendments are moved. In the rare situation where the applicant does not agree with the amendments, no member is precluded from moving them, but the applicant does have the right, which has happened before, not to proceed any further with the bill because it is no longer the bill the applicant wanted, and it is in essence their bill.

**Mr Smith:** To the applicants, I assume you've had the opportunity to review the amendments and that in your review of the amendments you're prepared to remain with the bill as printed versus proceeding with the amendments, so you're not supporting the amendments.

**Mrs Graham:** No. The question of the amendments, when we looked at them — we feel they don't address the issue we've come here to resolve. We could go back in the fall to the board of education and ask for a formal motion, certainly. We feel that would not be constructive community work because, as municipal elected officials both locally and regionally, as I indicated earlier, there has been a tremendous amount of support for initiatives we have taken in exempting our portion of our right to collect those taxes.

I do not think it would be in the best public relations interest of the board of education to reopen this issue, because I think they would not look favourable in it, but



if that were the route we had to go, if we had to go back and do that we certainly would.

To me, in view of the dollars involved here, the simplest route is to resolve it today, but certainly if the committee requires this of us — we tried to achieve it. May 15 and June 10 we met with them as quickly as we could. We just couldn't get back on a docket, and it would take us until fall.

Our first preference is that today you approve the parliamentary bill as put forward. I'll understand if you feel a referral is necessary, but our preference is that we go forward today.

1110

**Clerk of the Committee:** I'd just like to clarify one procedural thing also. If no amendments are introduced on this bill and this bill is defeated, the applicant would be required to start the entire process all over.

**Mr Shea:** I can't let Mrs Pupatello's comments about Bill 26 go without at least having on record a response. Clearly there is a significant difference between amalgamations of jurisdictions —

**Mrs Pupatello:** Not over elected officials.

**Mr Shea:** — and there certainly is a significant difference between that when all elected people involved in such an act are involved versus the issue that's before us today which deals with an internal situation within a municipality. There is a significant difference and that's obvious, I think, to most.

The issue before us today is pure and simple. It is the matter of school board consent, and for that reason I have to put a couple of questions to the deputants. I'm not sure whether Mr Carr wants to deal with it or if the municipality would like to respond.

I think it's important for the committee at least to be apprised of the meetings that occurred between the last meeting of the committee and this one between the municipality and the school board, and was that at the official level or was it at the elected level? Has the chairman of the Halton school board and have the trustees themselves been apprised of the basic principle that guides this committee? If so, how did they respond? How many meetings were held and how did they respond to that concern?

**Mrs Graham:** I can only speak to the information that was provided to me by Mayor Mulvale. My understanding is that she and the chair of Halton region, Joyce Savoline, and Linda Glover, the chair of the board of education, held a meeting on June 10, and it was at that meeting that the clarification took place that Ms Glover did not understand that they were not previously collecting the taxes. I understand, further to that, that Mayor Mulvale has had correspondence and discussions with individual trustees on a one-to-one basis. I believe there were representatives of the board of education at that meeting at the region, but I'm not positive of that as I was not present.

**Mr Shea:** So there was about a month between the meeting of this committee before that meeting was held between the mayor and members of the school board.

**Mrs Graham:** I'm assuming that was the first availability for them to get together. I really am not privy to that diary.

**Mr Carr:** I was just going to add something. Since this process began we've also had a change in the chair. The chair who was elected was removed, replaced, so we dealt with a previous chair, and a new chair has come in. They were going through the process of the budget which was, needless to say, very divisive, and that's to put it bluntly. During this period of time the politics on the board creates its own dynamics. The group met to bring the new chair up to speed to explain the whole process to the new chair and where we'd been.

When the trustees voted on this they thought they were getting the money and didn't even know they weren't receiving the assessment. They were shocked, and in speaking with some of them — these are some problems that occur on the board on a regular basis which create some problems that I think Mr Young alluded to earlier.

We've been trying to work through the system the problem we've got in dealing with the chair, and when you speak to individual trustees they say, "Oh, we didn't realize that; we'll support it now." But we can't have one body — normally how it works is through the chair, whether it's the region or the mayor, who will be able to say, "This is where we're going." Unfortunately I don't think she's in a position to speak on behalf of the board.

Those are the dynamics that were added through this. We've had two chairs through the whole process and the removal of a chair, and that has created its own dynamics on this whole issue.

**Mr Shea:** I take it from your response, Mr Carr, that there is a sense of surprise at the school board and probably, dare I suggest, a willingness to enter into discussions about this problem, and there is some implication in your comment that you would see some light at the end of the tunnel, that the school board may in fact recognize the value of exemption and might be coming to that position.

**Mr Carr:** I guess what I was trying to say, the position of some of the members seems to be, "We don't want to overrule the board." My sense of it is, and I shouldn't go out on a limb, they are not going to be upset by this bill passing, because of the problems. I don't say that lightly, to my colleagues who know.

**Mr Shea:** No, but at that point, let me just ask you to reflect for a moment. If members of the committee would like to preserve the integrity of the board, as we would want, I think, to argue for the integrity of the municipal council in a different kind of issue, what I'm asking you is, instead of us making a decision and making it easy for anybody so they don't have to come to grips with the issue — you've indicated in your response that there seems to be some movement, there's been a shifting of membership or the executive positions within the board.

It takes me by surprise to discover that the school board was not properly informed of the tax status, and that's for it to resolve internally anyhow. But if that's the case, are you giving us the inference that if you were to defer this matter for a couple of weeks, there may indeed be a resolution from the school board in which the integrity of the principle of local accountability is preserved and we're able to see that the tax exemption I think everybody on this committee would like to grant is in fact met?



**Mr Carr:** I don't speak for —

**Mr Shea:** The final point is you wouldn't have to start the whole process all over again by putting it to a vote today.

**Mr Carr:** I haven't talked to Kathy about it, but the mayor's been through this, we've had meetings, we've had the chair. Our basic feeling is we keep postponing this and keep carrying on and I would much rather — and I bow to the judgement of the people — have the vote and make the decision on it here today, rather than prolonging and continuing to go around with this thing. Notwithstanding the fact that it's a great opportunity to have people come down here and get involved in the process, I just think we're spinning our wheels by going back and forth.

Just very quickly to the committee, all I ask you to do is look at the merits of this bill, and when you do that, the proper thing is to vote in support of this bill.

**Mr Ron Brown:** I listened to all these things and in a simple sort of way I'm wondering if there's such a thing as creating a thinking that — inadvertently, it was a provincial department that removed the exemption that was in place. Is there such a thing as this committee going back to the town, to the region, to the school board and saying: "This was done in error. It was done with no authority. It's going to be put back in place"?

**Ms Graham:** I don't know if I can help. I think what the gentleman is referring to is the fact that in 1983, in checking with the assessment board, there was no taxation collected. It came as a surprise in 1993 that indeed the rules had changed and the assessment board was now saying they were not exempt. Had they had knowledge of that, they could have applied for a tax exemption status in advance and would not have had to go through this procedure.

I think what Mr Brown is trying to indicate is that through changes and bureaucratic ability to get things in place at the assessment bureau, they've been caught short. It wasn't their fault. It was an error made really in communication or whatever you want to call it, but they didn't know that their tax exemption had been eliminated in 1993. Frankly, if they hadn't built the building, today they'd still be exempt, and we wouldn't be here either because we believed they were exempt. So he's pointing out that really a very small bureaucratic decision has caused a huge problem. In my view, I think it's blown a little out of proportion.

**The Chair:** We better go back to questions from the committee. I have a number backed up here.

**Mr Young:** I just wanted to comment. As a former head of a taxpayers' coalition, I dare say my friend Mr Sheehan would agree that municipal government and

government in Ontario is not serving taxpayers as well as they should. In fact, he might agree that we have one level too many.

What we have here is one pool of tax dollars, one tax base which three elected levels of government share. Two out of three, two thirds of it, want this bill passed and want to make things happen. The other one is basically dysfunctional.

We have a school board which is a house divided right now and we're trying to correct the problem. Municipalities and school boards are children of the province. We have 168 school boards, and I bet a year or two from now there are going to be a heck of a lot fewer. We have over 800 municipalities, and I would say the same thing. A year or two from now there are going to be an awful lot fewer. We're talking about big change in the province of Ontario, and we're not going to hesitate to do what's right for the taxpayers and what's right for the province.

This is a small potatoes issue. Let's act on it. With respect, I'd like to request — we're flogging a dead horse — can we move to the vote, please?

**The Chair:** I have two more questions, although you have posed a question to the committee. Are the members agreed that we move to a vote at this point? Opposed? Agreed. I apologize to the other questioners who were backed up.

The members are ready to vote. We are voting on private Bill Pr58, An Act respecting the Lions Foundation of Canada.

**Mrs Pupatello:** A recorded vote, please.

**The Chair:** In keeping with a precedent we set earlier, we'll collapse sections.

Shall sections 1 through 4 carry?

#### Ayes

Boushy, Chudleigh, Hastings, Lalonde, Pupatello, Rollins, Smith, Len Wood, Young.

#### Nays

Shea, Sheehan.

**The Chair:** Shall the preamble to this bill carry? Same vote? Carried.

Shall the schedule carry? Same vote? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report this bill to the House? Agreed.

I wish to thank the sponsor and I wish to thank the applicants. I now declare this order of business closed.

**Mrs Graham:** Thank you very much. We appreciate the time you've given us.

*The committee adjourned at 1123.*











## CONTENTS

Wednesday 19 June 1996

<b>Town of Richmond Hill Act, 1996</b> , Bill Pr61, <i>Mr Klees</i> .....	T-121
Frank Klees, MPP	
James Sidlofsky, assistant solicitor, town of Richmond Hill	
Richard McGee, supervisor of bylaw enforcement, town of Richmond Hill	
<b>Lions Foundation of Canada Act, 1996</b> , Bill Pr58, <i>Mr Carr</i> .....	T-123
Gary Carr, MPP	
Kathy Graham, councillor, town of Oakville	
Ron Brown, executive director, Lions Foundation of Canada	
Beatrice Howell, assistant solicitor, town of Oakville	
Michael Riley, counsel, policy priorities and curriculum development division, Ministry of Education and Training	

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**Vice-Chair / Vice-Président:** Smith, Bruce (Middlesex PC)

\*Barrett, Toby (Norfolk PC)

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\*Boushy, Dave (Sarnia PC)

\*Hastings, John (Etobicoke-Rexdale PC)

O'Toole, John R. (Durham East / -Est PC)

Pettit, Trevor (Hamilton Mountain PC)

Pouliot, Gilles (Lake Nipigon / Lac-Nipigon ND)

\*Pupatello, Sandra (Windsor-Sandwich L)

\*Rollins, E. J. Douglas (Quinte PC)

Ruprecht, Tony (Parkdale L)

Sergio, Mario (Yorkview L)

\*Shea, Derwyn (High Park-Swansea PC); parliamentary assistant  
to the Minister of Municipal Affairs and Housing

\*Sheehan, Frank (Lincoln PC)

\*Smith, Bruce (Middlesex PC)

*\*In attendance / présents*

#### **Substitutions present / Membres remplaçants présents:**

Chudleigh, Ted (Halton North / -Nord PC) for Mr Pettit

Lalonde, Jean-Marc (Prescott and Russell / Prescott et Russell L) for Mr Sergio

Wood, Len (Cochrane North / -Nord ND) for Mr Bisson

Young, Terence H. (Halton Centre / -Centre PC) for Mr O'Toole

**Clerk / Greffière:** Lisa Freedman

**Staff / Personnel:** Susan Klein, legislative counsel

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T-13

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First Session, 36th Parliament

## Assemblée législative de l'Ontario

Première session, 36<sup>e</sup> législature

# Official Report of Debates (Hansard)

Wednesday 26 June 1996

# Journal des débats (Hansard)

Mercredi 26 juin 1996

Standing committee on  
regulations and private bills

Comité permanent des  
règlements et des projets  
de loi privés



Chair: Toby Barrett  
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LEGISLATIVE ASSEMBLY OF ONTARIO  
STANDING COMMITTEE ON  
REGULATIONS AND PRIVATE BILLS

Wednesday 26 June 1996

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO  
COMITÉ PERMANENT DES RÈGLEMENTS  
ET DES PROJETS DE LOI PRIVÉS

Mercredi 26 juin 1996

*The committee met at 1003 in committee room 1.*

DELZAP CONSTRUCTION LIMITED ACT, 1996

Consideration of Bill Pr62, An Act to revive Delzap Construction Limited.

**The Chair (Mr Toby Barrett):** Good morning. Welcome. Our first order of business will be the consideration of Bill Pr62. The sponsor is MPP Chris Stockwell and I would ask Mr Stockwell for some brief comments on this bill.

**Mr Chris Stockwell (Etobicoke West):** I'm just pleased as punch to be here, Mr Chair. I want to add nothing more than to introduce the witness, Mr Hercules Faga. He'll give you a very brief background; I'm sure it won't be long.

**Mr Hercules Faga:** The corporation was cancelled for failure to file the notice of directors and officers in 1988. At that time the notice of the change of the failure to file went to former solicitors for the corporation, who weren't acting. My address was incorrect on the notice. We found out some time last year that the charter had been cancelled. We've now brought this application because the company holds major assets it cannot deal with. Therefore, to continue its activity it requires revival of the corporation.

**The Chair:** Thank you, Mr Faga. Are there any other interested parties in the room? Seeing none, I would ask our parliamentary assistant to the Minister for Municipal Affairs and Housing, Mr Shea, for comments on behalf of the government.

**Mr Derwyn Shea (High Park-Swansea):** The government has no objection to this bill. There is, as members know, just one correction, and that involves the preamble. Where currently it reads "1987," it should read "1988." That's the only change that ought to take place.

**Mr Stockwell:** That's an amendment.

**The Chair:** At this point we now entertain questions from members of the committee.

**Mr Tony Ruprecht (Parkdale):** I've looked at the revival of Delzap Construction and, to be quite honest, the reason I'm supporting this without any question is because Mr Stockwell, who's supporting this, looked at it very carefully, I'm sure, studied it in detail so there would be no objection from our side of the House.

**Mr Stockwell:** What bill number is it? Gee, thanks, Tony.

**Mr Gilles Pouliot (Lake Nipigon):** I too will echo the sentiment of my distinguished colleague Mr Ruprecht. Who is not to believe the sponsor, Mr Stockwell, when he says there is no other place he would rather be this morning, that he was pleased to be here?

It's a long time — 1987. I see the applicant's address is given as c/o 137 Langstaff Road. Do you reside there, sir?

**Mr Faga:** No, I reside in Etobicoke.

**Mr Stockwell:** The city of immaculate lawns.

**Mr Pouliot:** I don't wish to pry into one's affairs. I see that you are in the construction business, obviously. Not to liquidate — this is not a facilitator. Do you intend to do some construction?

**Mr Faga:** No. The company is active and holds property. We were attempting to renegotiate a mortgage last year and we failed to do so because of that. In addition, when we filed our returns, it was the first year they failed to accept the returns because of the fact that the charter had been cancelled, but they had accepted them in the prior years, which we found a little unusual. It created a bit of a problem, as you can imagine.

**Mr Pouliot:** I want to wish you well. Thank you.

**The Chair:** Any further questions from members of the committee? Are members ready to vote?

Shall sections 1 through 3 carry? Carried.

**Mr Bruce Smith (Middlesex):** I would like to move an amendment to the preamble, please, in response to the parliamentary assistant's comments.

I move that the preamble of the bill be amended by striking out "1987" in the seventh line and substituting "1988."

**The Chair:** Shall this amendment to the preamble carry? Carried.

Shall the preamble, as amended, carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report this bill, as amended, to the House? Agreed.

I declare this order of business closed.

Thank you, Mr Faga and Mr Stockwell.

**Mr Stockwell:** Thank you, Mr Chair, and all my friends and you too, Tony.

**The Chair:** For everyone's information, the applicants for the next order of business have not arrived yet. We will adjourn for five minutes.

*The committee recessed from 1009 to 1025.*

CITY OF KINGSTON ACT, 1996

Consideration of Bill Pr59, An Act respecting the City of Kingston.

**The Chair:** Our second order of business is Bill Pr59. Our sponsor is MPP Pupatello, substituting for MPP Gerretsen. Our applicants are now at the witness table, and I would ask Mrs Pupatello for comments.



**Mrs Sandra Pupatello (Windsor-Sandwich):** First, I'd like to tell the committee that John Gerretsen would be here today. Unfortunately, his father passed away over the weekend and he is still in Kingston. We're expecting him to be back soon. I thought the committee members would like to know that.

Second, we'd like to thank the gentlemen for coming up this morning, fast off the train to the committee. I'd like to introduce Norman Jackson, the city solicitor, and Doug Ritchie, the managing director of the Business Improvement Area of Kingston. They'll describe the bill.

**Mr Norman Jackson:** Thank you for waiting for us and showing us the courtesy. Sorry that Mr Gerretsen isn't here. The funeral for his father was yesterday.

Ladies and gentlemen, this bill emanates from a request that the city be able to deal with litter, particularly in its downtown area. A number of years ago, our business improvement area asked that we develop a mechanism to deal with improvements to the downtown dealing with, first, snow and ice, and second, litter in the summer. We were able to deal with snow and ice under the existing provisions of the Municipal Act. We have passed a bylaw which requires merchants to help maintain the sidewalks in front of their premises for snow and ice, and that has worked fairly well.

We've worked hand in glove with the business improvement area, of which Mr Ritchie is the managing director. It was their idea, in part, that we apply the bylaw just to the downtown area. Most of their members are very responsible and would like to see an active part by the membership in maintaining the area, and they have asked that there be some teeth so that if some members are delinquent the majority wouldn't feel that from the public. We have a system dealing with snow removal and maintenance that the merchants take part in. We work through newsletters with our business improvement area committees and Mr Ritchie. If worse comes to worst, we may have to send somebody a bill if they're delinquent.

We propose the same thing with litter. We're looking at getting legislation which would apply in the summer as it does in the winter. If there's litter in front of a merchant's premises, we'll be asking them to take an active role in picking it up, particularly when it's off-hours, when the city crews are not on. The business improvement area in Kingston is very active. It draws very well, everything from boaters to different types of tourism. It's one of our biggest industries. We get complaints from time to time from visitors that we need to keep the area clean. We want to do that.

The business improvement area wants to assist, so we have developed legislation which would allow the municipality to ask the merchants to do it, and they are prepared to do it on the whole. Mr Ritchie is here to speak as well to that. If somebody doesn't do it, they would receive a notice and then, if necessary, the city might have to do it and send them a bill, as we do for snow removal. It's fairly simple. It's similar to legislation that the city of Ottawa now has. We don't want to make a bigger issue of it. We haven't had to charge a lot of merchants for the snow provisions, which are already in the Municipal Act, but we really want provisions so that

some people will know that there is a legislative basis for what we want to do, pure and simple.

**Mr Doug Ritchie:** We have, as Mr Jackson said, a very active BIA. We already have in place a BIA worker regarding street maintenance, a staff person who sweeps the street. We have a communications program that encourages individual businesses to do their share. We have surveyed the membership and they have indicated that they want more responsibility placed on themselves in terms of street litter. We have a program in place already that we call the Golden Broom awards, and we have recipients annually etc. I guess this would be finally adding a little bit of a stick to go along with the various carrots we're using, so that when there was that very small number of delinquent people who don't carry their fair weight, we'd have an additional tool to encourage them to do so.

**The Chair:** Seeing no other interested parties in the room, I would ask our parliamentary assistant, MPP Derwyn Shea, for comments on behalf of the government.

**Mr Shea:** Municipal affairs is quite neutral on this. The fact is that as Mr Jackson has pointed out, other jurisdictions have this, particularly through the boulevard provisions, Ottawa being one, Nepean being another. We've dealt with this in several other instances before this committee, even in the past year. While this matter will be addressed as part of municipal reform, we think — at least certainly we hope — it would be appropriate for this to be before the committee as it is now.

**The Chair:** We now call for questions from the committee.

**Mr John Hastings (Etobicoke-Rexdale):** Mr Ritchie, how many members are in the business improvement organization?

**Mr Ritchie:** Over 700; maybe about 740 right now.

**Mr Hastings:** How many of the businesses in your BIA object or are lackadaisical or resistant to this? Obviously your request for this indicates that there must be some component of the membership, as in most BIAs, who are unhappy campers about paying the additional taxes they do for where their business is located — or am I completely off base on this? — given a couple of BIAs I've been involved in before, where the issues were a little different but there were a few unhappy campers and they were saying there wasn't a lot of communication about a number of issues. Is this different?

**Mr Ritchie:** I think we have a pretty successful BIA with a strong sense of ownership by a strong majority of the members. We've received no objections to our BIA operating levy. I don't think we've received any in the last 13 years that I've been working there. Certainly this particular bill was well advertised in the city. I received no objections to it.

We have 19 on a large board of management of the BIA. Four of them are city councillors, but 15 are representatives of the business community who are elected at our annual general meeting. They are chosen by the business community itself, and then of course, as per the Municipal Act, after they're elected they're then appointed by city council. I think a fairly representative group has reviewed this bill and is in favour of it.

**Mr Hastings:** How many verbal objections have you had from your membership regarding the new provisions?

**Mr Ritchie:** I've had no objections at all regarding this.

**Mr Hastings:** In writing or verbally.

**Mr Ritchie:** Correct.

**Mr Jackson:** I might say that the city had one objection. It was from a residential property owner who was concerned whether we would apply it to a residential area, but we're not asking for that power.

**Mr Pouliot:** Our party is totally supportive of the proposal. I certainly understand the dilemma here — the precursor, the sign of things to come. We know where transfer payments are heading. It's the kind of decision that you have to make. We want to wish you well and a good journey back to historical Kingston. I sympathize with you. I had 10 years previous to this in a very small town, municipal and regional, at a time when things were better, when the responsibilities were under a different light; for instance, we were getting our share of transfer payments. But since last year we've seen a volte-face, so I sympathize with you and I encourage you in your endeavour.

**Mr Tom Froese (St Catharines-Brock):** I don't sit on this committee regularly. I don't understand why you're even here. You've got, obviously from what you've said and what I've read, a bylaw that's either been passed by the city or about to be passed. You've got agreement on it. Why is this coming forward to this committee if you've got agreement within the community to do it and you've got a bylaw passed? I don't understand what the problem is or why we're even discussing this. It can all be dealt with in the city of Kingston.

**Mrs Papatello:** Perhaps our parliamentary assistant would address that issue.

**Mr Shea:** We were just musing on that because, as I'm sure the member knows, an agreement with a com-

munity may be a mutual understanding but it still has no articular basis in law. That's precisely what's being asked for here, that legal empowerment be given as has been given to other municipalities.

**Mr Trevor Pettit (Hamilton Mountain):** I gather that if you need this, there must be some problem now. Is there trouble now with keeping the streets clean in the improvement areas?

**Mr Jackson:** Kingston is very busy, sir, in the summer with tourism. As I was alluding to, on Sunday evenings after a busy weekend, and sometimes at other times, there's litter on the streets when the city crews are not on.

**Mr Pettit:** But obviously some of these businesses are not complying at present or you wouldn't need this.

**Mr Jackson:** At present, there is no requirement that they comply. There's a request that they do their part as good citizens and keep the street in front of their premises clean, but they don't have to do that.

**Mr Pettit:** They obviously, in the view of the city, to a certain extent are not doing this and, by extension, therefore you need something to force them to comply? Otherwise you wouldn't need it, if they were doing it. Is that it?

**Mr Jackson:** Yes, true.

**The Chair:** Any further questions from the committee? Are the members of the committee ready to vote?

Shall sections 1 through 5 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report this bill to the House? Agreed.

I wish to thank Mr Jackson, Mr Ritchie and Mrs Papatello.

This committee now stands adjourned to the call of the Chair.

*The committee adjourned at 1039.*









## CONTENTS

Wednesday 26 June 1996

<b>Delzap Construction Limited Act, 1996</b> , Bill Pr62, <i>Mr Stockwell</i> .....	T-131
Chris Stockwell, MPP	
Hercules Faga, president, Delzap Construction Ltd	
<b>City of Kingston Act, 1996</b> , Bill Pr59, <i>Mr Gerretsen</i> .....	T-131
Sandra Pupatello, MPP	
Norman Jackson, solicitor, city of Kingston	
Doug Ritchie, managing director, Business Improvement Area of Kingston	

## STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

**Chair / Président:** Barrett, Toby (Norfolk PC)

**Vice-Chair / Vice-Président:** Smith, Bruce (Middlesex PC)

\*Barrett, Toby (Norfolk PC)

\*Bisson, Gilles (Cochrane South / -Sud ND)

\*Boushy, Dave (Sarnia PC)

\*Hastings, John (Etobicoke-Rexdale PC)

O'Toole, John R. (Durham East / -Est PC)

\*Pettit, Trevor (Hamilton Mountain PC)

\*Pouliot, Gilles (Lake Nipigon / Lac-Nipigon ND)

\*Pupatello, Sandra (Windsor-Sandwich L)

Rollins, E. J. Douglas (Quinte PC)

\*Ruprecht, Tony (Parkdale L)

Sergio, Mario (Yorkview L)

\*Shea, Derwyn (High Park-Swansea PC); parliamentary assistant  
to the Minister of Municipal Affairs and Housing

\*Sheehan, Frank (Lincoln PC)

\*Smith, Bruce (Middlesex PC)

*\*In attendance / présents*

**Substitutions present / Membres remplaçants présents:**

Froese, Tom (St Catharines-Brock PC) for Mr Rollins

**Clerk / Greffière:** Lisa Freedman

**Staff / Personnel:** Susan Klein, legislative counsel



## Legislative Assembly of Ontario

First Session, 36th Parliament

## Assemblée législative de l'Ontario

Première session, 36<sup>e</sup> législature

# Official Report of Debates (Hansard)

Wednesday 16 October 1996

# Journal des débats (Hansard)

Mercredi 16 octobre 1996

**Standing committee on  
regulations and private bills**

**Comité permanent des  
règlements et des projets  
de loi privés**





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LEGISLATIVE ASSEMBLY OF ONTARIO  
STANDING COMMITTEE ON  
REGULATIONS AND PRIVATE BILLS

Wednesday 16 October 1996

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO  
COMITÉ PERMANENT DES RÈGLEMENTS  
ET DES PROJETS DE LOI PRIVÉS

Mercredi 16 octobre 1996

*The committee met at 1006 in committee room 1.*

**The Chair (Mr Toby Barrett):** Good morning, everyone. Welcome to this regular meeting of the standing committee on regulations and private bills for today, Wednesday, October 16.

Before we go into our agenda, for members of the committee I would like to introduce Tom Prins, who will be the new clerk for the committee. I think we are all sorry we will be seeing less of Lisa Freedman, who has been clerk of this committee to date for this session.

UNIVERSITY OF ST JEROME'S  
COLLEGE ACT, 1996

Consideration of Bill Pr72, An Act respecting the University of St Jerome's College.

**The Chair:** Looking at our agenda, we will stand down the first order of business. Our next order being Bill Pr72, I would ask our sponsor, Wayne Wettlaufer, MPP, and the applicants if they would please approach the witness table. Mr Wettlaufer, you may want to say a few words by way of introduction and we may ask our applicants to say a few words as well.

**Mr Wayne Wettlaufer (Kitchener):** The purpose of the bill is to change the structure of the board of directors of the university. In the past the board had a majority membership made up of Congregation of the Resurrection priests, and the congregation has decided that they do not require a majority membership. I'll defer to Douglas Letson, the president of the university, and to Michael Deane, the solicitor of the firm representing the university, for any further comment.

**Dr Douglas Letson:** Mr Chair, I simply point out that the bill was changed in 1986 in order to provide the majority membership. Times have changed dramatically. The Congregation of the Resurrection feels it appropriate that the university have its business conducted through lay administrative control.

The only other change involved in the act, there was a provision in the 1986 act that provided for a seat for the School Sisters of Notre Dame. The act is proposed to be amended to provide simple ex officio representation from the provincial superior of the Congregation of the Resurrection and the president, but to eliminate any other reference, specifically to the majority of priests and to the presence of the School Sisters of Notre Dame.

The School Sisters had run a women's residence on campus. With their depleted numbers, they have moved out and the university has bought the residence and so there isn't any structural reason for their presence any longer.

Both the Congregation of the Resurrection and the School Sisters of Notre Dame are supporting this change

to the bill and it has been appropriately moved through the board of governors at the University of St Jerome's College.

**The Chair:** Are there any other comments while we have explanation? Are there any other interested parties with respect to this private bill? Seeing none, I ask our parliamentary assistant for municipal affairs, Mr Shea, for comments on behalf of the government.

**Mr Derwyn Shea (High Park-Swansea):** Mr Chairman, there is no objection to the bill. Mr Wettlaufer has given a very quick overview and an appropriate one. It's essentially housekeeping, and it's an attempt to modernize the representation on the board. As has been pointed out, the chair for the School Sisters of Notre Dame is being changed, along with the membership, from the Congregation of the Resurrection. It's allowing the board to simply reach out to a broader base for its representation. There is no objection whatsoever to this.

**The Chair:** Are there any members of the committee who have any questions or comments on this bill?

**Mr Tony Ruprecht (Parkdale):** I just want you to know that the reason I'm voting for it is because Mr Wettlaufer has looked at this in detail. He has come before us and made his recommendation, and that's why he's getting my support.

**Mr Shea:** The trust of the member in Mr Wettlaufer will be noted.

**Mr Tony Martin (Sault Ste Marie):** What provisions are made to ensure that there's a good mix of community membership on this board and that the community is represented in all its diversity?

**Dr Letson:** The intent, Mr Martin, is to provide for extended community membership. We have a board committee which is meeting and has been meeting for many months now. It is being chaired by Frank Clifford, whom I think many members of the House will know, since he is the one who brought in the design with respect to the teachers' college in the province. He has been much involved in education. He's chairing this committee of the board, and it is the intention of this committee to provide for broad representation, and they would be written into the bylaw.

**The Chair:** Seeing no further indications for questions from the committee, are the members of this committee ready to vote?

We are voting on Bill Pr72, An Act respecting the University of St Jerome's College, sponsored by Mr Wettlaufer.

Following our procedure and collapsing sections 1, 2 and 3, shall sections 1 through 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.



Shall the bill carry? Carried.

Shall I report this bill to the House? Agreed.

I wish to thank the applicants for this. I now declare this order of business closed.

#### ONTARIO PLUMBING INSPECTORS ASSOCIATION INC. ACT, 1996

Consideration of Bill Pr67, An Act respecting the Ontario Plumbing Inspectors Association Inc.

**The Chair:** Bill Pr67 is sponsored by MPP John Cleary, and I ask him and the applicants to approach the witness table, please. Mr Cleary, you may wish to say a few words and perhaps ask the applicants, by way of introduction, to make a few comments.

**Mr John C. Cleary (Cornwall):** Ladies and gentlemen, members of the committee, I'm pleased to have Mr Gunn and Mr Hamel with us today. I'll just make a few remarks first.

I am pleased to be here today to sponsor Bill Pr67, An Act respecting the Ontario Plumbing Inspectors Association Inc. To explain how I became the sponsor, about a year ago, in November 1995, a resident of my community, Mr Albert Parthenais, came into my constituency office to discuss the certification of building officials as outlined in the bill that was passed in the Legislature about three years ago. It was introduced as Bill Pr40 by Mr Tony Martin, the member for Sault Ste Marie, and it had royal assent nine days later on December 10.

In going over the bill with me, Mr Parthenais indicated that a similar bill for plumbing inspectors would be of benefit to everyone: plumbers, inspectors and people requiring the services of the trade. Mr Parthenais stated that although the plumbing association has had a voluntary certification program in place since 1976, a program which has been successful in certifying over 375 plumbing inspectors, the association felt that official accreditation from the province would heighten general public awareness of the skills required for plumbing inspection and encourage those people involved in the trade to continually upgrade their skills and training.

Shortly after the meeting, I referred Mr Parthenais to the clerk of the committee so that he could properly proceed with applying for the legislation. Some months then passed without my hearing from Mr Parthenais, but during this time the association was working with the clerk of the committee as well as legislative counsel in drafting appropriate terms for this bill. Mid-last month I received a draft of Bill Pr67 with notification of when and where it would be put forward on behalf of Mr Parthenais and the plumbing association. I must admit that I had no part in the contents of the bill. I am merely the sponsor of the request of my constituent Mr Parthenais. To date, I have not heard one complaint about the bill.

With that brief introduction of the bill, I turn the table over to the actual applicants of the Ontario Plumbing Inspectors Association and their legal counsel. My last comment is just to note disappointment that Mr Parthenais could not be with us today, but he is ably represented by Mr Gunn and Mr Hamel, who are seated at the witness stand.

**The Chair:** I ask either Mr Gunn or Mr Hamel for comments.

**Mr John Gunn:** My name is John Gunn and I am with the Ontario Plumbing Inspectors Association. We at the association are seeking this legislation which will grant the exclusive use of the designation "certified plumbing systems inspector" and the initials "CPSI" by its qualifying members.

We wish to identify those members who qualify as competent inspectors, who have proven capabilities in the enforcement and administration of the provincial codes dealing specifically with plumbing. Our association also has concerns that the identity of the plumbing inspector is gradually diminishing due in part to the incorporation of the plumbing regulations into the Ontario building code. This bill will certainly provide the catalyst to show that special education and training are needed for an inspector to competently carry out plumbing inspections.

Foreshadowing the fact that other associations are certifying inspectors in different disciplines, plumbing is a specialized field in the building industry requiring same to be installed by certified tradespersons. Therefore, we feel it would be fitting that the inspector be as knowledgeable as the installer.

Since 1920 the association's members have diligently served the people of Ontario to bring about plumbing regulations that have provided a safe environment. Through our certification program, we have educated our members at seminars, meetings, conferences and by the distribution of a bimonthly bulletin containing technical information. Since 1975 our members have asked that we promote the status of the plumbing inspector with the provincial certification. This bill, we feel, is the last step in that promotion.

The Ontario Plumbing Inspectors Association is a legally constituted, non-profit association comprising individuals employed as inspectors or officials by municipalities and government agencies who enforce and administer the Ontario regulation respecting plumbing to ensure the health and safety of the general public in Ontario. The enforcement of a minimum provincial plumbing code, part 7, under the Ontario building code is a function required of every municipality in Ontario.

Unfortunately, there are no regulations or standards established by the province to establish the qualifications, competence and ethics of inspectors and related officials who are responsible for implementing the requirements of the plumbing regulation under part 7 of the Ontario building code and the Building Code Act. Yet these individuals are expected to approve the work of the certified tradesperson, individuals who have spent thousands of hours learning the plumbing trade, including numerous weeks in trade school learning the plumbing regulations and plumbing techniques.

Because there are no provincial qualifications required for an individual to enforce the regulation of part 7 of the Ontario building code, the general public has little assurance that their health and safety and investment interests are being taken seriously.

1020

The Ontario Plumbing Inspectors Association is sponsoring the designation "certified plumbing systems



inspector" in order to identify those inspectors and officials who have successfully completed a program based on education and experience that will provide a degree of assurance to the general public that plumbing systems inspected by qualified individuals will meet the requirements of the Ontario plumbing regulations.

Although it is not the association's proposal that only certified plumbing systems inspectors be allowed to practice, a private bill is proposed to restrict the use of the designation "CPSI" for only those qualified in order that they will be uniquely identified. The association also includes members from manufacturing sectors, certified plumbers, plumbing apprentices, professional engineers, architects, engineering technologists and plumbing instructors from community colleges, all of whom work in close liaison with the plumbing inspector.

If you have any questions, I'd be glad to answer them.

**The Chair:** Thank you, Mr Gunn.

I would ask if there are any interested parties to this bill. Seeing none, before I go to committee questions, I would ask for any comments from our parliamentary assistant, municipal affairs, Mr Shea.

**Mr Shea:** There is no government objection to the bill. It's a very straightforward bill; once again, a designation of titles. There have been 20 such bills since 1985 in this regard and most members of this committee will know the designations and have been involved in many of them. No concerns have been raised by any outside agency in terms of this application, and so, as I say, the government has no objection to this proceeding.

**The Chair:** With respect to comments from the committee, I know Mr Hastings and then Mr Martin have questions.

**Mr John Hastings (Etobicoke-Rexdale):** Mr Gunn, could you tell us whether your organization is actually going to propose in the future a more formalized system of education, since I take it from your remarks you're grandfathering all the folks who are in this trade already.

**Mr Gunn:** Those who are classified as a class 1 plumbing inspector by our existing certification program will be grandfathered to CPSI. We are making arrangements to have the education in place so that those who do not qualify will be able to be educated to qualify for CPSI. Both through the Ministry of Housing and through our own organization, courses are going to be provided for the plumbing inspector to upgrade to the designation of CPSI. It will be available, yes.

**Mr Hastings:** Will that be allocated to any specific community college or will it be more on a distance-learning operation?

**Mr Gunn:** It will be done more through the Ministry of Housing and through our own organization for educating the plumbing inspectors, as it is right now.

**Mr Hastings:** My second concern relates to the representation on your organization. Certain individuals have come to me with respect to other organizations that are colleges in fact, and —

**Mr Gunn:** Community colleges, yes.

**Mr Hastings:** No, colleges dealing with the professions. One of the concerns they have raised with me is that a board of directors — I don't want to get into the details of the specific profession — has become to a great

extent dominated by its professional staff; and secondly, there doesn't seem to be any clear consumer representation on this organization in terms of how they handle consumer complaints.

Does this bill that you have proposed anticipate how you can deal with that sort of situation? Will you have a specific complaints-handling process put into effect through the bill or through regulation if there are customers who are not satisfied with the work undertaken by members of your group, so they can be reported out to the public? How you will handle the whole consumer profile situation is what I'd like to know.

**Mr Gunn:** We have an organization of sponsors who are representing the private enterprise and they work hand in hand with our association. We will definitely be carrying on that between manufacturers, mechanical contractors associations, the community colleges and so on. We work hand in hand with them and if there are any complaints you're talking about, then I'm sure that would filter back through us and we would be able to deal with it at that time.

**Mr Hastings:** Are you planning then to set into operation a specific way of handling complaints from members of the general public, should they arise in the future?

**Mr Gunn:** We certainly could. If you feel that's necessary, then we could have that drafted into our bylaws.

**Mr Hastings:** Perhaps into the bylaws or your code of ethics might be a good suggestion.

**Mr Gunn:** Yes, sir.

**Mr Hastings:** Because there are many organizations that get established by this Legislature and the consumer complaint procedure gets bogged down.

**Mr Gunn:** I see.

**Mr Hastings:** I'm not saying yours is, I'm just anticipating from past experience what I've seen occurring in at least two colleges that deal with our professions in this province.

**Mr Gunn:** Right. I'm sure we can make arrangements to have that taken care of.

**Mr Martin:** This is a very important piece of business that we do here in that plumbing, where we used to think of it as a system that carries water, is now a system that carries a lot of different substances into buildings, into homes, gas and other things.

**Mr Gunn:** Natural gas and so on, yes.

**Mr Martin:** It seems to me that it would be really important that we put our minds to setting up a system that would make sure that whatever is done under the guise of plumbing and professional plumbing be the best, and we set up something like what you're proposing here today.

I just have a couple of questions, because I'm not sure how broad your scope is here. I know there is residential and building plumbing considerations. There's also industrial plumbing, and on the industrial side of things, certainly there is potential for some really difficult circumstances to arise if the job isn't done right.

**Mr Gunn:** Yes, sir.

**Mr Martin:** I know from talking to and working with particularly the plumbers and pipefitters' union in the



province, they've raised concerns about the qualifications of people actually doing that work and the actual inspecting of that work when it's done.

Actually, there are three questions here. How broad is the scope? Is this plumbing and pipefitting across the board?

**Mr Gunn:** Provincial.

**Mr Martin:** I mean industrial as well as residential?

**Mr Gunn:** Yes, sir. Everything built on private property.

**Mr Martin:** The second question then would be, how much dialogue have you had with the plumbers and pipefitters?

**Mr Gunn:** Local 46 or all across the board?

**Mr Martin:** Across the board, yes, provincially.

**Mr Gunn:** We have good communications with Local 46, as well as the Mechanical Contractors Association. We have a representative of the unions sit right on our executive. They're there at our monthly meetings, and we've had good communications with them. We also have support from the local unions. They have supported us. We've had no union that has been derogatory about it, so we don't see a problem.

We understand what you're saying. The biggest problem we have is from the contractors who are saying about unqualified inspectors, and this doesn't just mean in the rural areas, it's in different areas where there are inspectors who are inspecting plumbing whose qualifications are not up there. This is what we're trying to give the municipalities the opportunity to even put in their job descriptions that when they are hiring for a plumbing inspector they can ask for a CPSI, and then they will know they are getting a qualified plumbing inspector when they hire one.

**Mr Martin:** Then to follow up on Mr Hastings's question — at least I think it was him who asked the question — regarding the training, there certainly from time to time arises some question about who in fact does the training and who does it best.

In my community, the plumbers and pipefitters have their own shop where they do training, the community college does training, and it's all overseen by the government that provides a good chunk, not all of it. The unions themselves provide training money and so does the industry provide training money, but together that money gets spent and we get training happening.

You are going to be, and you already are, I'm assuming, bringing people together around that question —

**Mr Gunn:** Yes, we are.

**Mr Martin:** — including the unions?

**Mr Gunn:** We know that the unions provide training and the community colleges provide training. Presently, the Ministry of Housing has an introductory plumbing inspection course. It's a basic course. It would probably take a plumbing inspector through your basic house. They don't have anything for what you were talking about, for education for larger commercial-industrial buildings, but we have had meetings with them, and they have promised us that they will have a course by September 1997, which will be an intermediate course, and by September 1998, an advanced course for plumbing inspectors, so then we will have the introductory to plumbing inspection, an

intermediate course in plumbing inspection and an advanced course, which will take us right up through backflow prevention put out by the Ministry of Housing, as well as the OPIA. Right now we are running our own courses, an upgrade course for plumbers to try to educate the plumbers, which makes our job easier too.

1030

**Mr Martin:** What about your relationship with, for example, the propane and gas industry? Again, that's a question that's come up in my jurisdiction. There are plumbers who want to become certified in installing that kind of a process, and there seems to be always some tension between the industry itself and the plumbers and pipefitters and the actual guy or woman who wants to get involved. Will you, within this, be able to oversee that and make sure there's a standard set that regulates, whether it's the industry itself going out and hiring its own and limiting access to that kind of work to their own people as opposed to opening it up to participation by plumbers and pipefitters from a union shop or some other private company that does that kind of business?

**Mr Gunn:** Our scope of work that we inspect is all pertaining to plumbing, which is water in, waste out. When you get into the gas, a gas fitter, that's a specialized trade of its own.

**Mr Martin:** So it's not a part of this?

**Mr Gunn:** No, it's not. Of course, plumbers also can be gas fitters and they can also have their certificate to work on medical gas as well as being a plumber-pipefitter, but we are specializing right here in the plumbing aspect of it. We are not getting into the gas end, because that's not our field of expertise.

**Mr Martin:** How do you propose to regulate the possibility of — I guess I'll ask the question; I think I know the answer — people coming in from out of jurisdiction and plying their trade? Is that a problem for you?

**Mr Gunn:** No. If they were to come in, we will be operating on the point system, and when you reach a certain level of points, both through education and through experience, then you will qualify for a CPSI, and if somebody coming from another province comes in, if they have their interprovincial certificate, we would accept that as being the same as a C of Q for Ontario, so then they would have to work on the point system by their education and by their experience to see if they would qualify for the designation of certified plumbing systems inspector. But we wouldn't have a problem with people coming from other provinces as long as they could qualify.

**Mr Martin:** Okay, because that has presented itself as a bit of a problem from time to time, a contractor being hired, say, out of British Columbia coming into Ontario to do a job and the folks here saying that the plumbers they're bringing with them are not as qualified as the plumbers that we train and prepare here in Ontario.

**Mr Gunn:** Yes. That wouldn't enter into this. That would come more under licensing, which is more of a municipal affair, done by the municipalities, whether they license their contractors or not, but that wouldn't have anything to do with enforcement.



**Mr Martin:** So what you're saying is whether the plumber is from BC or Ontario, at the end of the day, you've got to inspect it?

**Mr Gunn:** That's right.

**Mr Martin:** And the inspectors are qualified according to the criteria laid down by your association?

**Mr Gunn:** That's correct.

**Mr Trevor Pettit (Hamilton Mountain):** On page 2 of your report, you say, "Unfortunately, there are no regulations or standards established by the province to establish the qualifications, competence and ethics of inspectors and related officials." If that's the case now, then who controls that? How do you get to be an inspector? What qualifications do you need?

**Mr Gunn:** Right now, a municipality can advertise for a plumbing inspector. Every municipality has to have a plumbing inspector by law. If they don't have the finances to hire a qualified plumbing inspector, they can make the building inspector, the dogcatcher, whoever — boom, "You are also the plumbing inspector," and he will be called out and it's his job to go out and look. Most often, the plumbers on the job know more than the inspector who's coming out to inspect it, and this is a lot of them.

**Mr Pettit:** So you don't necessarily have to be a qualified plumber?

**Mr Gunn:** No. Just —

**Mr Pettit:** It could be anyone off the street type of thing, the way it is now?

**Mr Gunn:** Exactly. Anyone off the street can inspect it, but it's a law that you have to be a licensed plumber to install it. You have to have your certificate of qualification in your pocket to work as a plumber, but the inspector coming out to inspect it can be anybody, as long as he's appointed by the municipality.

**Mr Pettit:** So someone within a municipality can take John Smith out of his office and say, "Go check the plumbing at this construction site."

**Mr Gunn:** Exactly. That's the way it is right now.

**Mr Frank Sheehan (Lincoln):** How are other trades inspected now, say, electricians? Who does the inspection?

**Mr Gunn:** Ontario Hydro inspects for electricians and every municipality has its own building officials to inspect buildings. So there are three delegations of inspection — plumbing, electrical and building — in the construction trade.

**Mr Sheehan:** Is roofing separate or is that in building?

**Mr Gunn:** That's covered by building.

**Mr Sheehan:** Following on what Mr Hastings was talking about on the consumer, your board seems to be comprised of an executive only. Is that correct? There are no board members other than the executive set out in subsection 3(2)?

**Mr Gunn:** We have our board members, but we also have affiliate members. We have our sponsors' association, we have our advisers, we have a representative from the Ontario public health and, as I said, from the local unions, the Mechanical Contractors Association. They come to our meetings. They are affiliate members, as well as our executive.

**Mr Sheehan:** Is what you're proposing, the governance, going to be comprised only of executive members and that's it? There will not be a board of directors?

**Mr Gunn:** We have our executive board of directors.

**Mr Sheehan:** In subsection 3(1) you say, "The affairs of the association shall be managed by the executive," which is "president, vice-president, immediate past-president, secretary, treasurer, bulletin editor and such further number of persons..." Maybe I have some direction elsewhere here. Is it the custom on these organizations to have a board of directors or is it the custom — can you get away with just specifying an executive constitutes the board of directors?

**Mr Gunn:** I think that's the way we operate, that the executive does.

**Mr Sheehan:** I am concerned then that we are giving you self-governance but there's no provision in here on your board for members of the public, of non-professionals, if you will. Why is that? We're giving you self-governance. Most of the self-governing bodies I am aware of always have a provision for a proportion or percentage of the board members to be non-practitioners. I'll speak directly about the insurance brokerage business. We had a board of 12 but three of them had to be non-brokers. Why is that? Where is the protection for the public in here?

**Mr Gunn:** We do have provisions in here for such further persons as determined by the bylaws of the association.

**Mr Sheehan:** I understand that, but we're giving you statutory authority and I'd like to see the provision built right in.

**Mr Gunn:** Okay. I'm sure we could have that covered in our bylaws too, sir. We could have that, so there would be provisions made for —

**Mr Sheehan:** How do we go about making sure that happens? Chair?

**The Chair:** To make this kind of an adjustment I think I would defer to the clerk.

**Clerk of the Committee (Mr Tom Prins):** To make a change like that you're going to have to move an amendment to the bill.

**Mr Sheehan:** Would the Chair entertain such an amendment, and do these people have enough time to think about it?

**The Chair:** We often have amendments to bills. I don't know whether we would come up with the appropriate wording.

**Mr Sheehan:** I have another problem with this proposal, and maybe you can address both of them. Section 11 on page 3 seems to give this organization immunity from any acts. I'm wondering why we would want to give that kind of immunity. It's kind of a statutory immunity. These people are dealing with processes where — I guess there's a classic illustration going on up in Richmond Hill right now. Somebody didn't do something and they're talking about a major problem with a building. I think that since this group will be in a position of power and have authority, they should be responsible for their acts and we should not be giving them immunity from liability in this act.

**The Chair:** Mr Shea, you had a comment?



**Mr Shea:** Mr Sheehan, you will know that that is an authority that's given in every instance. You will know, for example, that this is the coverage for officers in the executive in an association and it's given to everybody the same way. It's not granting them the kind of immunity that you may lead people to believe is being given from any other legal process. It's strictly in the execution of that office, and this is the same kind of coverage that's in every piece of legislation of this nature, to my knowledge.

1040

**Mr Sheehan:** With respect, I do not recall such an exclusion in the act that governs the Registered Insurance Brokers of Ontario.

**Mr Shea:** Do you have it with you? I can't recall it either.

**Mr Sheehan:** I don't have it with me. I just happened to spot this now and I'm kind of surprised by the thing.

**Mr Shea:** I would be surprised if it didn't have something in there somewhere for the executive. You might have an unusual one.

**Mr Sheehan:** No, I don't know why we would give this immunity. I think people who stand on boards should be responsible for their actions. Now, I accept the exception you're making, that that was a specific act of a department.

I don't think anybody who sits on a board should be immune from prosecution for errors or for negligent acts. If they want to protect themselves, then we'll make provision. I think there is provision coming forward in some of the changes right now to allow non-profit organizations to buy liability insurance and also to indemnify the board members, but I have a problem, and maybe the clerk can do a quick research up in the library to find out if there's similar on RIBO, which is my only reference point. But I am not in favour of giving anybody this immunity.

**The Chair:** Can we go on? There are two more comments and then we can come back to this.

**Mr Sheehan:** Fine, yes.

**Mr E.J. Douglas Rollins (Quinte):** Do you feel once this bill is passed that you are going to bring any hardships on municipalities by making them have duplication of inspectors?

**Mr Gunn:** No. It will give them the opportunity when they are making out a job description for a plumbing inspector to ask for this, which would mean they are getting a qualified person. It just gives them the opportunity to ask for it if they choose to.

**Mr Rollins:** Okay. So after this comes into effect and the next time around when a municipality needs to rehire somebody for a building inspector — I know in rural Ontario there are a lot of building inspectors who are, as you said, dogcatchers, and they have other duties at the same time. Does that tie them up to the point where they're not going to be able to have that individual? Will they phase out that qualification?

**Mr Gunn:** No. It just gives them the option of asking for a CPSI if they are looking for a certified plumbing inspector. So it gives them the option, but they are not committed to do it.

**Mr Rollins:** If my municipality doesn't choose to have a person who's qualified with these initials after them,

are the tradespeople going to say, "Heck, that fellow isn't qualified so we don't listen to him"?

**Mr Gunn:** No, sir. It just gives them the opportunity to have that written in their job description if they choose.

**Mr Rollins:** If they choose. Okay then, thanks.

**Mr Mario Sergio (Yorkview):** Just a comment more or less, Mr Chairman. I would like to congratulate the member for bringing this forward. I think it's going to bring some improvement in the profession of the plumbing industry and business.

Just one comment with respect to the concern that the member has on the immunity of the members. He didn't mention negligence. The clause in here does not make any mention of giving them immunity if they are found to be negligent in any matter whatsoever. Therefore I don't have any concern with the clause as it is. I believe they would be responsible if they are found negligent in the discharge of their duties and responsibilities. It only says if an act is done "in good faith." But if it is proven that this is done not in good faith, then they are being negligent in the discharge of their duty and I would say they are fully responsible. So I have no problem with the clause and I have no problem with the approval of the bill.

**Mr Hastings:** Mr Gunn, another matter that came to my attention when I went through that bill the other evening relates to the concern that Mr Martin raises regarding folks coming from other jurisdictions, other provinces, that you could have some sort of an equivalent point system to measure whether they have the technical proficiencies as you lay out the course. Hopefully you'll take it over in the next few years. But my major concern relates to how you will handle the whole issue of access to trades.

The Honourable Marilyn Mushinski is most concerned in her area — and the government as a whole, in a sense — regarding how we deal with access to trades and professions for folks coming from other parts of the world. I have a large, multidiverse riding and I must have had at least six meetings in the last year reflecting this concern from people from other parts of the world. It didn't necessarily deal with your trade but I could see that it could possibly arise as you get more newcomers coming to this country.

How will you measure out or equate if they have any education in this field from technical colleges from other parts of the world? There seems to be a tremendous blockage, in the professions at least, that you must rewrite the whole exam or start again. They hardly give any points of equivalency for recognition for education in technical fields from other parts of the world. I'm wondering how you would deal with that issue, even though it's not part of the bill.

**Mr Gunn:** The Ontario Trades Qualification and Apprenticeship Act would have jurisdiction over that, where a person coming from another country would have to apply to them to be able to write the certificate of qualification for the province of Ontario. If they could show that they had come from another country where they were a licensed plumber, they would have to take courses to learn our codes so that they could be knowl-



edgeable in the way that plumbing is installed according to our plumbing codes in Ontario.

**Mr Hastings:** That's my precise concern, that we are saying that in effect it doesn't matter how much experience and how much education you have from other parts of the world; it's completely or nearly irrelevant. You must take our standards. I'm just wondering whether we're being somewhat inflexible in that area.

**Mr Gunn:** I don't think so. I just came back from the World Plumbing Conference in Chicago. I was there and I was talking to plumbing contractors from all over the world. If it did one thing, it really opened my eyes because we sort of figure that the way we do things is right. Being a plumber who grew up in Ontario and went to school in Ontario, I figure that we've got our way and it's the right way. After talking to these people from different countries, it just surprised the hell out of me the different ways they go about doing things.

When you get somebody coming from New Zealand and they want to come over and be a contractor or a plumber in Ontario, I feel it's their obligation to make sure they are brought up to date on our codes. Otherwise, if they go out and try to do things according to the codes of New Zealand, it's just not going to work. They're not going to get their jobs passed. It's to their benefit too to upgrade themselves — not "upgrade"; that's the wrong term — to educate themselves in our way of doing things.

**Mr Hastings:** So you believe they would have to undertake an examination.

**Mr Gunn:** Yes, they would have to write their certificate —

**Mr Hastings:** Written and practical?

**Mr Gunn:** Under the Ontario Trades Qualification and Apprenticeship Act, they would have to write an exam to get their C of Q in plumbing.

**Mr Hastings:** And start over?

**Mr Gunn:** They wouldn't have to go back and start as a first-year apprentice, no. They would have the opportunity to write their licence. But to write their licence is a three-hour exam and they would be obligated to take courses.

**Mr Hastings:** Thank you for dealing with that.

**Mr Shea:** Chairman, to expedite matters, and we've had a chance to do some consultation here as the deputation has been responding to questions, Mr Sheehan and I probably are both right but coming at it from different ways.

In terms of private legislation, I think it's probably more correct that Mr Sheehan's right, but you don't see often the kinds of immunity clauses that we see here. You'd see that more in the public bills that come forward, and that's the sort of thing we're much more familiar with. In that sense, if Mr Sheehan felt strongly, he might simply move to strike section 11, for example, and we could simply vote on that or not. That would be a simple matter and it doesn't seem as though it would wave any red flags with the deputation, as I look at them.

The second part to that deals with the first issue that Mr Sheehan had raised, and that concerned the mix of the board or the executive, however you deal with that. I am reminded that where the province is structuring agencies,

it often places this kind of mix in place in the legislation. But where they are self-regulating and they assume upon themselves a responsibility for the self-regulation, the composition of their governing body is left to them to determine. So it's not one that the government would step into in that case. If it's a public bill, that's a different matter again.

**Mr Sheehan:** I get the distinction, yes. It's a fine hair you're laying down there.

I'd prefer, when you're giving self-governance — and I notice they build in provisions. If they discipline one of their members, there is an appeal process externally. Perhaps that could be sufficient, but they do deal with an awful lot of business that comes on the public, and I don't think they should be allowed to do it all on their own. I don't think it puts an inordinate amount of pressure on them to provide this.

I can tell you from my experience on the RIBO board that the input of people — we used to call them the lay members — was very beneficial and very helpful in the deliberations. I have to defer to what you're saying, what the practice is, but my preference as a legislator with some experience in self-governance is that the public interest is best served and there's greater transparency if there is a non-practising member on the board.

**Mr Shea:** In response, Chairman, it would seem as though the deputants don't have a particular problem with that philosophy either, at least as I watch them respond to your comments earlier. They have indicated they have some interest in responding to that suggestion by way of bylaws, regulations instead of the legislation.

**Mr Gunn:** Certainly.

**Mr Shea:** If it means to accomplish that by deferring this and going back and coming back to the process again, that's a matter you may want to wrestle with for a moment and decide, or if they want to take some undertaking now with some kind of amendment you want to put on the floor, Chairman, I leave that in your hands. I must say, in terms of the government, I'm less fussed one way or the other in that regard. I want to speak more clearly about the other one and make sure we were clear about how you might want to deal with section 11.

**Mr Sheehan:** I would prefer if section 11 were just dropped.

**Mr Shea:** But an amendment, then, in that regard would simply be made; you would move that that should be omitted.

**Mr Sheehan:** Right. I have no quarrel with what you're proposing. I'm just fine-tuning.

**Mr Gunn:** Sure, I understand.

**Mr Sheehan:** I think the clerk was drafting an amendment that may work. I don't know. Where did she go?

**The Chair:** I suggest there's a bit of work being done here. I recommend a three-minute recess, and we may want to photocopy some material. Back in three minutes.

*The committee recessed from 1053 to 1101.*

**The Chair:** We will now proceed with a clause-by-clause discussion of this bill. However, before we do that, I wish to ask our clerk for a few words.

**Clerk Pro Tem (Ms Lisa Freedman):** When we do clause-by-clause on this, there appears to be a preference from at least one of the members to strike out section 11.



A motion to strike out section 11 is technically out of order, so we will do clause-by-clause. We will still put the question, "Shall section 11 carry?" and if people do not want it to carry, you simply vote against the section when we get there.

**The Chair:** Are members of this committee ready to vote? We're voting on Pr67, An Act respecting the Ontario Plumbing Inspectors Association Inc., sponsored by Mr Cleary.

Shall sections 1 through 10 carry? Carried.

Shall section 11 carry? All in favour of having section 11 carry, please raise your hand. All opposed? Defeated.

Shall sections 12 and 13 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report this bill to the House, as amended? Carried.

I wish to thank the applicants and declare this order of business closed.

#### CITY OF TORONTO ACT, 1996

Consideration of Bill Pr66, An Act respecting the City of Toronto.

**The Chair:** Our next order of business, Bill Pr66, is sponsored by MPP Bassett. Ms Bassett, if you would very briefly make some introductory remarks, I would ask the applicants to introduce themselves after that.

**Ms Isabel Bassett (St Andrew-St Patrick):** Good morning to you and to the members of the committee. It's my pleasure today to introduce to your committee Bill Pr66. This legislation is required in order to clarify the authority of city of Toronto council to pass bylaws to prohibit or to regulate the fees that may be charged by municipal law enforcement officers appointed by the city council to enforce bylaws of the municipality. The legislation clearly sets out that council has the authority to prohibit or to regulate these fees, including the ability to set the amount of the fees and manner in which they may be collected.

Sylvia Watson, the acting city solicitor for the city of Toronto, and Councillor Steve Ellis are also here to present this bill. I would respectfully request that your committee, after consideration of their proposal, recommend that the Legislature pass Bill Pr66 in its present form. I understand that Ms Watson will also be assisted as necessary by members of the Metropolitan Toronto Police Service and the transportation operations branch of the city works services department.

**Mr Steve Ellis:** My name is Steve Ellis. I'm a member of city council and also a member of the executive committee of city council. Mayor Hall cannot be here today so she asked that I come and present to this standing committee.

I'll just give a bit of background on how this all got started. Several years ago, in response to a request of the property owners in the city of Toronto, city council amended its bylaw regulating parking on private property within the municipality to allow for enforcement of the bylaw by private municipal enforcement officers appointed by city council under the Police Services Act instead of just police officers, as it had been.

However, as the system developed, it became clear that the property owners had essentially turned over the management of their property for parking purposes to unscrupulous municipal law enforcement officers companies and towing companies that were pursuing the use of towing in an unfair and abusive manner so as to maximize their profit through enforcement. As fees were collected from the vehicle owners only where the vehicle was towed, there was a clear incentive for these MLEO companies wishing to maximize their profits to tag and tow as many vehicles as possible without regard for the normal requirements of fairness which characterize any respectable law enforcement scheme.

City council, in attempting to balance the needs of property owners with the complaints of vehicle owners, looked at various ways of ensuring that enforcement is done responsibly, including a prohibition on the charging of fees by municipal law enforcement officers, and has sought the support of the province for the passage of this legislation.

Thank you very much for taking this time to consider this application. I would respectfully request that your committee support the legislation as proposed. I now turn it over to Sylvia Watson to do a further submission.

1110

**Ms Sylvia Watson:** The purpose of the legislation is clearly set out in the documents that are before you. It's intended to enable city council to pass bylaws which would include the ability to set the amount of fees charged by municipal law enforcement officers, the ability to prescribe the circumstances under which those fees might be charged and the ability to determine how those fees may be collected, including by way of a lien under the Repair and Storage Liens Act.

At the present time, the parking and leaving of motor vehicles on private property without the consent of the property owner is prohibited under the city of Toronto municipal code. As has already been indicated to you, city council, in reaction to complaints received from property owners not satisfied with the level of enforcement with respect to illegal parking on private property which could be provided by the police, amended the city's bylaws in 1991 to allow for enforcement of parking regulations by private municipal law enforcement companies whose members would be appointed by city council under the Police Services Act for that purpose. These individuals are to be certified by the Metropolitan Toronto Police as competent for the purposes of enforcing municipal parking bylaws and, by agreement with the city of Toronto, are supervised and trained by the police in the performance of their enforcement duties.

What did become clear, however, is that the enforcement by private MLEO companies could be subject and did become subject to certain abuses due to the methods they used to collect the fees charged for their services. Instead of charging the property owner who called upon them to tow the cars away, MLEOs were charging an administrative fee to the owners of the cars. The only way they could collect those administrative fees was by actually towing the car away and enforcing this administrative fee, which was sometimes very high, pursuant to the Repair and Storage Liens Act. We were faced with a



situation where, rather than tagging cars that were illegally parked, they were just being summarily towed away with these huge towing fees and fines, as well as administrative fees tacked to them. My understanding is that it sometimes costs people as much as \$250 to retrieve their car from a towing yard when it had been towed away from private property.

As a consequence of public complaints, the city of Toronto enacted bylaws that were intended to deal with the situation. The response of the industry was to suggest that legal action would be brought on the basis that the allegation or concern was that the city council did not possess the authority to control or to regulate or prohibit those kinds of administrative fees. Accordingly, this legislation is being sought to clarify that the city does have the authority to both prohibit and regulate the fees in the way that is set out in the legislation so as to control any abuses that might be undertaken by these MLEO companies.

I would ask that your committee recommend passage of Bill Pr66 in its present form. I'd certainly be pleased to answer any questions. I have brought with me members of the city of Toronto city works services department and the Metropolitan Toronto Police Service to assist in that regard.

**The Chair:** From the agenda, I see we have an interested party, Mr Staszewski.

**Mr Joseph Staszewski:** I'm a municipal law enforcement officer and I own an agency that employs municipal law enforcement officers in Metro Toronto. I prepared a deputation in writing for you because the issue isn't as simple as it sounds, as it has been laid out to you. The basic information you received is correct; there are some things that have been left out. The towing industry now has a uniform price, which means that it was voluntarily set through the Metropolitan Licensing Commission, of \$75. The prohibition of charging of the fees is what I'd like to discuss.

In essence, the city of Toronto wants to change the Highway Traffic Act. They have the ability to appoint municipal law enforcement officers. There was a case, a challenge of the municipal law, in the city of Toronto in front of Justice O'Leary. Justice O'Leary made a ruling on the extent of when a lien can and cannot be enforced on a vehicle.

In essence, the application is a rewrite of the Highway Traffic Act. The Highway Traffic Act, subsection 170(15), states: "A police officer, police cadet, municipal law enforcement officer or an officer appointed for the carrying out of the provisions of this act, upon discovery of any vehicle parked or standing in contravention of subsection (12)" — which is not pertaining to this issue — "or of a municipal bylaw, may cause it to be moved or taken to and placed or stored in a suitable place and all costs and charges for removing, care and storage thereof, if any, are a lien upon the vehicle, which may be enforced in the manner provided by the Repair and Storage Liens Act."

A conflict, or rather the real issue, arises when the cost of enforcement is not considered a real cost to a victim. A property owner who has to pay for enforcement, that's a real cost. That became the issue. The issue has been

ruled upon in an appellant decision of the Honourable Senior Justice O'Leary in *Gluckstein v J.P. Towing*, in which the city of Toronto was named as intervenor and had to support J.P. Towing in the challenge of the bylaw 675-79 and the status of a municipal law enforcement officer, an MLEO. Please examine the ruling; it is very explicit. I gave copies of the ruling. J.P. Towing and the city of Toronto were awarded damages.

This was when fees were being collected through the city of Toronto bylaw. The ruling states the right of the victim to use an MLEO and a towing company to apply all costs to the offender through the Repair and Storage Liens Act. It also states that an MLEO has the same right to invoke subsection 170(15) of the HTA as a police officer, even though the payment of service is different. Police officers are supported by taxes and tag revenue. Municipal law enforcement officers are not supported in either of those capacities.

In comment, the ruling suggests that costs should be real and reasonable and that the municipality may decide to set reason to cost, which I believe is the bill before you right now. The question is not, "Who should pay the costs?" but rather, "How much should the offender pay?" I believe that hopefully will be the issue in the term "regulate."

This was illustrated during debate when the lawyers for the city of Toronto told Justice O'Leary that council had changed the bylaw to prohibit MLEO fees. I was there, present in the courtroom, on a project. Justice O'Leary, upon hearing the attempt at political policy contaminating his decision, warned the lawyer by saying, "I will rule on the new bylaw when it is presented to me."

After his ruling, he asked one simple question of the five lawyers before him: "Who should pay for the costs of enforcement and removal of an offending vehicle?" There was no reply because all present realized that if they said the offender, then it supported the Repair and Storage Liens Act, and if they said the victim, then it would become a real cost and therefore also support the Repair and Storage Liens Act. Either way, the offender is legally required to pay. Get to the money and get to the truth.

#### 1120

There are two reasonable solutions for the reimbursement of services rendered by MLEO agencies:

First, tag revenue proportioning to the agency supplying the service. Metro gets tag revenue presently, not the city of Toronto. In my estimate, tag revenue per year is about \$66 million for Metro. The number of tags issued in the city of Toronto results in about \$44 million. It's an important issue for the city of Toronto, there's no doubt about that. Tag revenue proportioning with an agency supplying the service is important.

Second, regulation of agencies presently being supervised and certified through the Metro Toronto Police Force with an expansion of the decertification process of any who disobey established guidelines committed through contract or overcharge a fair rate as passed by the city of Toronto.

For instance, now Metro police supervise all the MLEOs. They create the guidelines and they oversee their activities. In the past, Metro police haven't had the teeth



legislatively to decertify people who've stepped out of line. The industry itself did clean up some of the early offenders. Most of them are out of business, but the teeth for Metro police are still lacking, and I believe what the city of Toronto is trying to accomplish today is to provide teeth to their bylaws. That's what I hope is the direction of this.

There's a logical third option and that's a combination of tag revenue sharing and a regulated fee.

In regard to tag revenue disbursement for services rendered, the cities of Scarborough, Etobicoke and the borough of East York have passed in counsel requests for Metropolitan Toronto and/or the police services board to establish a proportioning method. The traffic department of North York, a special task force of the chief of police, in which I was involved, and even the legal council of the city of Toronto are on record in support of a contractual proportioning system so that the MLEOs don't have to charge the property owner, they don't have to create towing fees, they receive their revenue from the tags they issue. In other words, they do the work; they deserve to get paid for it.

Three years and Metro seems to have done nothing in regard to those cities' requests. What's the problem, you may ask? Metro gets the tag revenue and the municipalities create the rules. That's the problem right there. Perhaps you see an agenda attached to Bill Pr66, and I'm not unsympathetic with the agenda. I think Metro council has fumbled the ball, to be quite honest with you, and I believe the city of Toronto is trying to compensate for that fumble. Metro police, MLEO agencies and private property owners are in the middle of two levels of bureaucracy. Now the province is involved, that's three levels. Perhaps the province will apply the commonsense solution by allowing the city of Toronto to regulate the enforcement fee until Metro and the cities come to terms with the right process.

I think the city of Toronto is making a proper request and hopefully they'll come through.

The real issue: How to maintain the rights of the victim, which is the property owner, by maintaining the level of enforcement services without imposing taxation increase and balancing the offenders' rights for fair and accountable fees or fines? That's the real issue.

Right now, if someone wants my services, MLEO, they have to pay for it. I don't believe in that and I don't think our system of jurisprudence makes victims pay for law enforcement. I simply think that's wrong. If you're victimized by people who constantly park on your property, I don't think you should have to pay for calling in law enforcement. In fact, many of the members of the police services board agree with that. They call it involuntary taxation.

If the intent of Bill Pr66 is to standardize fees and practice of MLEO agencies through Metro police supervision, I as a MLEO agency support Bill Pr66. Conversely, if the intent of the city of Toronto is to eliminate all fees and infringe on the rights of victims and taxpayers by a reduction of service and the burden of the tax system by supporting the offenders, I oppose it. It's quite out front.

I make one recommendation in the draft: Delete the words "or prohibit." On second thought, I don't think we

should delete the words "or prohibit," because the city of Toronto makes the rules, they have the right to say you can't use the rules, and I think that any legislative committee or organization ought to have that power.

At the end of paragraph 1 of the proposed act, I would add, "as supervised by the regional police force." This ties in the supervisory powers of Metro police to make sure that the MLEOs are working within their guidelines. It gives them peace to be able to say, "You're not doing it right; you're out of here," and that's what I'd like to hear. The problem we had is the fellows who abused the system in the beginning. When we said, "Hey, you're not doing it right," they thumbed their noses at the entire industry, the city of Toronto, Metro, the police force and said, "Hey, you don't have any power." So it's important that you include the regional police force, which in this case is Metropolitan Toronto Police, in that bill.

Laws are intended to keep everyone honest, and I believe these changes will provide for a balance of intent on all levels. I volunteer my services to any or all who wish to discuss this matter further.

**The Chair:** Are there any other interested parties to Bill Pr66? Before we go to questions from the committee, I would ask the parliamentary assistant to the Ministry of Municipal Affairs, Mr Shea, for comments on the part of the government.

**Mr Shea:** I find myself in an interesting position right now, having been a person who has represented the city of Toronto on its council and then Metropolitan Toronto council and now find myself speaking on behalf of the government. I had some interesting reactions to the comments of our last deputant, but first, my function is to ensure that I present the view very fairly on behalf of the government on this request from the city of Toronto.

I want to ensure that the members of the committee understand that there have been no objections received from any ministry in terms of the request by the city of Toronto, not only from Municipal Affairs but from the Solicitor General and Consumer and Commercial Relations. All have been asked for their comments, and there have been no objections.

Having said that, I want to add one personal comment. I have been through these waters many, many times, and I would like to give my best advice to this committee: If you think the Book of Solomon was difficult, this one is even more so. I would simply suggest that we remember the spirit and the intention of Bill 26 and we are in fact I think called upon to allow municipalities to have the scope and the responsibility to deal with circumstances as they find them. With that in mind, I would counsel you accordingly.

On behalf of the government, though, there have been no objections raised to this matter.

**Mr John O'Toole (Durham East):** Just a clarification: I probably know the answer, but who actually pays the law enforcement people? Are they paid by the city of Toronto?

**Ms Watson:** No, they're privately employed individuals.

**Mr O'Toole:** Who pays the employer?

**Ms Watson:** You mean the fees paid, the fees they get from taking cars away?



**Mr O'Toole:** We're really at the issue here. Who pays for the law enforcement?

**Mr Ellis:** If I can help, they're not employed by the city in any way. They're not employed by the police. These municipal law enforcement officers are, for the most part, a private industry that have responded to a need. However, TTC employees can be made municipal law enforcement officers, also city employees. We can designate them and put them through the training, but the issue we're dealing with today, for the most part, is these private companies that apply to get designated and they go and carry the service.

**Mr O'Toole:** Let me just slow it down a little bit. The law enforcement people are duly authorized or certified under some level of government, because they're doing a function on behalf of someone. They are trained. They are certified. They are legitimized or whatever you call it. Who is the legitimizing agent, the police services board, Metro council? This is central to the whole thing. Who says he's authorized to do anything? Who is that authorizing agent?

**Mr Staszewski:** I can answer that for you. You're going to be surprised: You are.

**Mr O'Toole:** The province?

**Mr Staszewski:** That's correct.

**Mr O'Toole:** Under the liens act?

**Mr Staszewski:** The province gives the authority to the city of Toronto to create a bylaw —

**Mr O'Toole:** Yes, through the Municipal Act.

**Mr Staszewski:** That's correct, to create the bylaw. The city then gives the authority to Metro police through the Police Act to certify and instruct the officers. The Metro government has the authority to collect fine revenue. So in essence, we're appointed by the province and the city of Toronto. We work to generate revenue for Metropolitan Toronto.

1130

**Mr O'Toole:** So whoever seeks your service should pay for it, period. Now, wherever they get that revenue, whether it's from tags or towing or whatever, that's who should — I'll tell you, from a small municipal perspective, the same thing: All parking infractions, by some definition of the Highway Traffic Act, had to be given out by the regional police. They just couldn't handle the problem around this one area, a hospital, it turned out, so they designated the municipal bylaw enforcement people to do it.

Then what happened, it didn't have the teeth, if you will, legalistically as a police-issued summons or whatever, so the people weren't paying them. But these municipal bylaw enforcement people were actually paid for by the town, the municipality, and they acted under direction of those, instead of an agent like yourself. It was really a subcontractor. That helps me.

So ultimately, you're paid out of some revenue given to you from all this tagging and towing, is that it?

**Mr Staszewski:** The problem is that we do not receive anything from the tag revenue, and that's the —

**Mr O'Toole:** Where do you get your revenue?

**Mr Staszewski:** There's two ways to get it. One, we get a property owner who pays us, those who can afford to. In other words, private property parking problems are

unique to every property. When I do Yorkdale, it's different from when I do the Beckers store on the corner. I have more people up there. So the guy on the corner, can he afford to pay one of my people \$20 an hour to stand there and give out tags? No.

The level playing field has to exist, and that was the intent of the fee in regard to attaching it to a towed vehicle. When a vehicle was towed, the fee which in the beginning was \$30, which is also the amount of the fine revenue that Metro gets, was attached to the offending vehicle. Therefore, a fellow who owns a small store on the corner could have an MLEO and say, "Please tow that car," and he wouldn't have to directly pay that. He could, through the court system. It's indirect. If you look at Justice O'Leary's decision, you'll realize. In essence, he pays the municipal law enforcement officer to tag the vehicle and remove it. The officer then attaches his fees to the offending vehicle and collects on the Repair and Storage Liens Act. Those fees were originally \$30. What happened in the beginning is that people went crazy.

**Mr O'Toole:** There was a little kickback going on.

**Mr Staszewski:** That's right, and they went crazy. That's where the problem existed.

**Mr Ruprecht:** I'm reminded that we're not here today to separate all the players when we step into this morass in terms of who's got authority. We're not going to be able to fix all of those problems today, it's obvious, but what does become obvious is the request by the city of Toronto. Is this committee going to support Bill Pr66 in its present format? The request, what they want to do, is to regulate and to prohibit the charging of fees by municipal law enforcement officers. They are seeking the right here today to regulate the charging of fees. That has to be, I suppose, the essence of this argument.

Now, what isn't clear to me, and I guess that's my question to Mr Staszewski, is that when he says if the intent — at first, when Mr Staszewski started out, I was afraid that he would be totally against Bill Pr66 and that we'd have a greater morass on our hands. But he too is saying to us he is essentially in favour, if we just make some minor amendments; then he goes on to say, "If the intent of the city of Toronto is to eliminate all fees and infringe on the rights of the victims and the taxpayers." So I just have two questions.

My first one is, Mr Staszewski, what do you take to mean that if the city of Toronto eliminates all fees and infringes on the taxpayers?

**Mr Staszewski:** If they lower the standard of enforcement activity in the city of Toronto by eliminating the fees, thereby eliminating municipal law enforcement officers, the small property owners are going to hurt, because they can't afford me. Big guys can afford me, they pay me; small guys don't. We're trying to exorcize this fee settlement so that these property owners have the right to law enforcement as equally as large property owners.

The second part of your question is the regulation may change. The reason it may change is because if Metro decides to open up its pockets, then the need for an enforcement fee attached to a towed vehicle may disappear. For instance, in 1993-94, I made Metro over \$1 million, but it didn't pay me a penny — \$1 million. If



someone came up to you and said, "Here's \$1 million," would you turn your back on them? Definitely not. I understand the hesitancy of Metro to give up some of this money.

The people who were taking the heat were Metro police who supervised the program and the individual cities that made the bylaws. The city of Toronto doesn't get any money out of this program and it was taking the heat; that's why I'm here to support them. If Metro was sitting here, I may have a different attitude.

**Mr Ruprecht:** I appreciate that very much. It seems to conclude anyway that you are in support of this legislation or the request.

My final statement is simply this: We're asked today to try to come to grips with this tremendous abuse that has been taking place in the past. Anybody living here or even anybody just visiting Toronto knows and has heard about the problem of people being overcharged and taken to the cleaners. We know that. How else can we possibly come to grips with this? We'll be here until, as my friend across the aisle says, the cows come home.

The question has to be, do we give this municipality the right — that's the one to the right, yes — do we give the city of Toronto the right to regulate this or not? That's the sole question here. That's where I come in favour of Bill Pr66, simply because I like to come to conclude an end to the tremendous abuse. How the municipality versus Metropolitan Toronto come to a conclusion between themselves may not be our jurisdiction, may not be what we ought to do here. But certainly what we are asked to do is, does the city of Toronto have the right to regulate or not? When you ask that central question, in my mind there's only one way to go, and that is to say yes, we'll support this. That's where I'm coming from.

**Mr Martin:** I will be supporting this bill as well, and I'll tell you why. I'm not from the Metro area; I'm from way up north.

**Mr Shea:** But your heart's here.

**Mr Martin:** My heart's here. When I'm here, my heart's here too. I appreciate the light that Mr Shea and Mr Ruprecht have put on this, because they represent this area. But from somebody from outside who in fact has been, in my definition of it, a victim of this — and it was interesting this morning to listen to who was the victim and who was the offender. That differs depending on, I suggest, who you're talking to.

My experience of it was, I came down to Toronto here last winter. I drove down on a Sunday to have supper with my caucus colleagues. I drove to the area where we were going to have supper and there was a huge vacant parking lot out there. I parked my car, looked around for some place to get a ticket or give some money and there was nothing. So I left it there, thinking the worst that can happen is I'll get a ticket. I'm not sure what that would have cost me, but you put that on top of the cost of the meal. But to make a long story short, you know what happened.

**Mr Shea:** You couldn't find it.

**Mr Martin:** Yes. I came out later, having offered to drive a number of my colleagues home to find that my car wasn't there.

**Mr Gilles Bisson (Cochrane South):** And we had to walk.

**Mr Martin:** This is Sunday evening. There wasn't a car to be seen, and my car is gone. I wasn't denying anybody else the use of that particular little piece of —

**Mr O'Toole:** It's a tragic story.

**Mr Martin:** It is a tragic story. You know where the tragedy lies, Mr O'Toole? You don't seem to understand this sometimes. The tragedy lies in that I'm not the only one. I left that night saying I will never drive downtown Toronto again and have supper. I'll tell you, there are a lot of people from Sault Ste Marie who have had the same experience.

1140

I suggest to you there are a lot of people from across this province who drive into downtown Toronto for an evening of entertainment or to have supper, and where they thought it was going to cost them \$100, it ends up costing them \$200, \$300, \$400 at the end of the day. I asked myself after that, and I only got the answer today, why it was my car was towed. Why would they tow my car? Why wouldn't they just put a ticket on it and charge me the extra, I don't know — what's a ticket, \$30 or \$40?

**Mr Ellis:** It's \$20.

**Mr Martin:** I paid \$10 in the Sault last weekend for a parking ticket.

**Mr Bisson:** You got a habit of doing that.

**Mr Martin:** I've a got bad habit, that's right, but they didn't tow me away.

**Mr Rollins:** You should go to McDonald's. They have free parking.

**Mr Martin:** I knew I was taking a chance on going into this little store on Queen Street in Sault Ste Marie. I knew that if I got caught it would cost me \$10, but \$10 was better than \$125, and I didn't get towed. Down here I got towed. Now I find out this morning that the reason I got towed is that's the only way this gentleman here gets his money. So that's interesting.

I would suggest that if you talk to the business people of downtown Toronto who want to attract people in, who want to have a vibrant economy going for themselves, they'll probably support this as well, because I would assume they are paying the price for this very offensive activity on behalf of some folks to make a buck at the expense of some others.

Having told that story and shared with you the perspective of some of us from outside of downtown Toronto re that whole question, I will unquestionably be supporting this piece of legislation.

**Mr Hastings:** Mr Staszewski, if this bill passes and other cities in Metro came to this committee asking for similar legislation, would you be here to support them?

**Mr Staszewski:** Yes.

**Mr Hastings:** You would. When was the last time you were involved with any meetings with Metro regarding this whole situation to try to sort out the morass that this is?

**Mr Staszewski:** Mr Ellis can answer that question better than I, but the city of Toronto invited me on their city services committee to discuss this. Three invitations went out to Metro council. The only person who showed up was a provincial person.



**Mr Hastings:** It says a lot about the need for regional government, but that's another story.

**Mr Staszewski:** Yes, and just to clarify the vulturing activity image that was created by the offenders in the beginning of the industry, in 1993-94, 5% of the vehicles that I tagged, I towed. On a daily rate, I believe Metro police have a ratio of around 20%. So if you're painting it black, I think you better paint it blue first.

**Mr Hastings:** Out of the \$66 million that's involved here — we say that money isn't involved here, but really control and money are the two gut issues, I assume — do you know from your own experience or from the industry's experience how that \$66 million breaks out? I would assume the city of Toronto has the largest bulk of the \$66 million involved in it and then North York, then Scarborough, then Etobicoke, then the lesser of the other two municipalities.

**Mr Staszewski:** Recently there has been a change within the Metro organization that focuses on that exact point, coincidentally. The breakdown actually, the \$66 million — it's actually more than I believe now — goes into a general account, which means that it feeds the entire city or the entire municipality of Metro Toronto.

The biggest portion of that goes to the Metro Toronto Police Force because they have the biggest portion of the budget. As far as the individual municipalities are concerned, I don't think there's any prorated method of tag revenue sharing, which I believe there should be. In fact, I made a proposal to a member of provincial Parliament that perhaps a provincial tag would solve this problem, with a portion of the tag going to the individual municipality where the tag was issued, the agency supervising the MLEO, the agency that is employing the MLEO and the provincial court system, which supports the entire proposal. That member decided to sit back and see what the city of Toronto was going to do.

**Mr Hastings:** Wouldn't that be a better methodology to employ —

**Mr Staszewski:** Yes.

**Mr Hastings:** — if we had a common, standardized approach to the apportionment instead of coming to us — I guess there's a question for Councillor Ellis — and asking for almost the exemption?

**Mr Ellis:** In essence, the problem is — we're not here about money, because we don't get any of the money. We're here because as politicians we've had many committee meetings and we have been just inundated with demands from the public that this is outrageous. There have been tour buses towed in downtown Toronto, little operators from the northern States. These people have discretion whether they come to Toronto or not, and once their tour bus is towed, they're not coming back.

The thing is, the money aspect, I'm trying to get an answer too. It's at least \$66 million. It's probably closer to \$80 million. Metro Toronto hide these figures and they won't release them. We understand that at least 70% of the tickets come out of the city of Toronto because we're denser and there's less parking here. They blitz our neighbourhoods in the east end and in the west end at midnight, go around and get people without parking permits. So enforcement issues aren't equal across the city. They focus on Toronto because they can get a faster turnaround. One of the Green Hornets can issue 100

tickets or 50 tickets an hour in Toronto. It takes them a lot longer in North York and Scarborough to get those tickets because everyone has driveways for the most part.

So it is uneven, and just to underscore the value of money to Metro, it no longer goes to the police at all; it goes to the treasurer of Metro through finance, so the finance department of Metro are now enforcing and driving it all. It's basically a tax collection, an informal tax collection.

**Mr Hastings:** Why do you suspect the other municipalities in Metro are either reluctant or indifferent or see this as less of an urgent issue than you do?

**Mr Ellis:** They don't have the problem we have because the bulk of the municipal law enforcement office companies focus in on Toronto and Toronto lots just by the volume and they've been able to make a lot more money quicker, just like the parking enforcement people in Metro can make a lot more money quicker in the core than they can out in North York or the outer areas of Scarborough.

So we've had terrible abuse by these municipal law enforcement officers. In essence, in 1991 we created a Frankenstein by creating this. We asked for it and we created the monster by asking the police services board to allow us and the province to allow us to do this, and it got out of hand. Now we're asking, in essence, to let us bring it back to reality, and we've had many, many committee meetings on this.

The other cities: North York has had a problem and I know Councillor Moscoe of North York has been a very loud advocate and North York has been looking at it. I suspect Scarborough and Etobicoke and East York and the city of York just don't have the same kind of abuse and the same kind of problems because they don't have the population or they don't have the downtown core that we do.

**Mr Dave Boushy (Sarnia):** I suppose you could apply logic to every argument, but the fact remains that our government encourages local decisions by local authorities. What we have here is not to draw up a bylaw, not to authorize a bylaw, but we're authorizing the local council that they may pass a bylaw. So I would definitely support this.

**Mr Sheehan:** I think I've got the thing figured out, but I'm not sure. There's no necessary order to what I'm going to say.

Mr Ellis, does this bill address the problem where the Metro people collect all the money and you guys provide all the victims?

**Mr Ellis:** Not really. We haven't put anything into the Who Does What committee yet with Mr Crombie or anyone, but in essence it doesn't really address it except for the fact that it addresses the problem that we're taking away part of the profit incentive and the profit motive of towing. That was a specific issue that we have to deal with because there's simply been too much towing on private property in Toronto.

Metro's still going to get the money. We're not that happy with it. We'd just as soon have a cut of it, and not only a cut of it, but I would like to think that if the city councillors had control of it, we wouldn't be driven by the profit motive. We'd be driven by being sensitive to



small business in the area. Many of our small strips are killed because they don't have big parking lots and the Green Hornets go out just to collect the tags for Metro and our people are getting hammered. So I think we'd be more sensitive.

In essence today, it's a wash for revenue basically. We're not doing it here for a revenue basis or trying to get revenue for Metro; we're here just trying to get some rationality and clip the wings of some of the vulture companies. There are some good companies too. There are some good companies that are very responsible, but then there are a lot of them that aren't. We just want to take away that profit incentive for them and get some rationality, to try to come to grips, because it has been such a hot topic but it's also been very controversial. It's also been very troublesome to many, many people in the city of Toronto, many residents and also many visitors. I see Mr Bisson suffered the wrath of the parking enforcement people.

1150

**Mr Sheehan:** I think you ought to switch personalities over there.

**The Chair:** I was Mr Martin.

**Mr Sheehan:** Put up with us. But number 11 —  
*Interjection.*

**Mr Sheehan:** Just a minute. I'm not finished.

Number 11 says that you decided to leave the provisions of a bylaw which gave the MLEOs an ability to authorize towing from private property. Are they not empowered to do that now? If somebody parked in my driveway or what have you and I called him and had him towed away —

**Ms Watson:** You're not permitted to do that right now.

**Mr Sheehan:** I'm not?

**Ms Watson:** No.

**Mr Sheehan:** If it's private property, I can't get your car off my property?

**Ms Watson:** That's not permitted right now.

**Mr Ellis:** You'd call the police, though. You see, the police can do it and the police do respond a lot and the police have the power to do it and are often called.

*Interjection:* Not in the bylaw.

**Mr Ellis:** Not in the bylaw, but they do get called.

**Mr Sheehan:** Okay. In St Catharines, if you were on my lot and I don't want you there, you aren't going to be there and I'm not going to pay anything; I'm just going to have you out of there. So my question is, is this bylaw going to empower the land owner to protect his property?

**Ms Watson:** That's the whole purpose of the bylaw, you see, to empower the private property owner to authorize an MLEO to have a vehicle removed from the property and, at the same time, empower the city to either regulate or prohibit fees that are charged in connection with that towing. As far as the city is concerned, the two need to be linked together so as to prevent the abuses that occurred before.

**Mr Sheehan:** And that's what you're asking?

**Ms Watson:** Yes.

**The Chair:** Mr Bisson.

*Interruption.*

**Mr Bisson:** I'll just let this conference finish first. Once the conference is done, I'll ask a question. Chair?

**The Chair:** Would you step outside, please? I have a question for the applicants or interested parties from Mr Bisson.

**Mr Bisson:** At this point as it exists, the money is split three ways when somebody's actually ticketed and towed away?

**Ms Watson:** Do you mean the actual ticket itself?

**Mr Bisson:** Yes. One of these guys goes by and they tow away a truck. You get a violation and you pay the tow truck. How is it split?

**Ms Watson:** There's a ticket that's issued, which is a Metropolitan Toronto Police ticket. So Metro gets all the money from the ticket.

**Mr Bisson:** That's right.

**Ms Watson:** There's a towing fee that the towing operator —

**Mr Bisson:** They get that.

**Ms Watson:** I don't know if the MLEO —

**Mr Bisson:** Not them, but the towing —

**Ms Watson:** The towing operator gets the towing fee, and then there is an administrative fee that is currently charged by the MLEO for the work done in calling the tow truck. That's the way it's currently —

**Mr Bisson:** Does all that money stay with him? The administration fee stays with him? No? That's the part I didn't catch.

**Ms Watson:** It's supposed to stay with him. I can't answer to whether there's any sort of sharing of the fee with anyone else.

**Mr Bisson:** The quick question is, does Toronto get anything back in the end?

**Ms Watson:** No. Toronto gets nothing.

**Mr Bisson:** That's what I thought. So basically what you want to do is you want to regulate their actions.

**Ms Watson:** Yes, simply so that the abuses that we saw in the past of towing cars unnecessarily don't occur.

**Mr Bisson:** The part that I'm wondering is, I had a constituent — actually, something like the story Mr Martin had — who comes down, parks on public property on a street somewhere in downtown Toronto and gets a ticket issued by the property management. Does that tie into this in any way?

**Ms Watson:** It wouldn't be on a street.

**Mr Bisson:** It was on a street.

**Ms Watson:** That would be surprising.

**Mr Ellis:** Some of these people are quite liberal in giving out their tickets. Private property and public property doesn't mean much to some of them; they just give them out.

**Mr Bisson:** Are they able to do that? That's the question.

**Ms Watson:** No. The only thing I can suggest is that maybe the car was pushed off private property and ended up being on public property. MLEOs deal with private property.

**Mr Bisson:** No, it was parked on a public street. I think it was on Edward Street.

**Ms Watson:** I can't answer to why that happened, but it shouldn't have.

**Mr Staszewski:** I could answer better. The MLEOs can issue tags on municipal property. Sometimes there's a border between a boulevard and a street where the municipality actually owns a boulevard. So the person may assume they're on the street when they're not. That may be the cause of confusion. But I don't think that happens very often.

**Mr Bisson:** I'll ask a question privately after. I'll raise it with you. Thank you.

**The Chair:** Are the members of this committee ready to vote?

We're voting on Bill Pr66, An Act respecting the City of Toronto, sponsored by MPP Bassett. We're collapsing sections.

Shall sections 1 through 4 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Should I report the bill to the House? Yes.

I wish to thank the applicants and interested parties. I declare this order of business closed.

#### SUBCOMMITTEE SUBSTITUTION

**The Chair:** Our next order of business is the item listed as number 1 on our agenda, and I would entertain a motion.

**Mr Bruce Smith (Middlesex):** I would move that Mr Martin replace Mr Pouliot in the membership of the

subcommittee on committee business with respect to item 1 on our agenda.

**The Chair:** Any debate on this motion? All in favour of this motion? Opposed? The motion passes.

**Mr Shea:** Mr Chairman, just before you declare it, can I just make sure we're very clear for the record, in case some people were leaving here, about the other matter? You got by it very quickly. There was talk about revenues, and let's be very clear about the revenues that come in. The revenues that come in on the one hand may go to Metro in some areas of tagging, but the fact is that Metro pays the total cost of policing. The local estimates do not cover that. So I think we understand it.

**Mr O'Toole:** If I can respond to that, that's the problem. The police department isn't enforcing the laws. It's some other agency that's enforcing the law.

**Mr Shea:** It's a difficulty of sufficient resources, and that's got to be worked out at another level. That's why I'm glad the committee dealt with this the way it did. It was appropriate.

**Mr O'Toole:** What they did in our municipality — they ran into the same thing — is that any tickets issued by the bylaw enforcement people in our municipality around the area where they're designated, the revenue came back to the municipality.

**The Chair:** Excuse me. I want to declare that last item of business closed.

**Mr Shea:** I'm out of order? All right.

*The committee adjourned at 1157.*









## CONTENTS

Wednesday 16 October 1996

<b>University of St Jerome's College Act, 1996</b> , Bill Pr72, <i>Mr Wettlaufer</i> . . . . .	T-135
Mr Wayne Wettlaufer	
Dr Douglas Letson	
<b>Ontario Plumbing Inspectors Association Inc Act, 1996</b> , Bill Pr67, <i>Mr Cleary</i> . . . . .	T-136
Mr John C. Cleary	
Mr John Gunn	
<b>City of Toronto Act, 1996</b> , Bill Pr66, <i>Ms Bassett</i> . . . . .	T-142
Ms Isabel Bassett	
Mr Steve Ellis	
Ms Sylvia Watson	
Mr Joseph Staszewski	
<b>Subcommittee substitution</b> . . . . .	T-149

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**Legislative Assembly  
of Ontario**

First Session, 36th Parliament

**Assemblée législative  
de l'Ontario**

Première session, 36<sup>e</sup> législature

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(Hansard)**

**Wednesday 27 November 1996**

**Journal  
des débats  
(Hansard)**

**Mercredi 27 novembre 1996**

**Standing committee on  
regulations and private bills**

**Comité permanent des  
règlements et des projets  
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LEGISLATIVE ASSEMBLY OF ONTARIO  
STANDING COMMITTEE ON  
REGULATIONS AND PRIVATE BILLS

Wednesday 27 November 1996

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO  
COMITÉ PERMANENT DES RÈGLEMENTS  
ET DES PROJETS DE LOI PRIVÉS

Mercredi 27 novembre 1996

*The committee met at 1006 in committee room 1.*

CITIES OF KITCHENER AND  
WATERLOO ACT, 1996

Consideration of Bill Pr71, An Act respecting the City of Kitchener and the City of Waterloo.

**The Chair (Mr Toby Barrett):** Good morning. Welcome to this regular meeting of the standing committee on regulations and private bills for this day, Wednesday, November 27, 1996.

Our first and only order of business this morning will be consideration of the following bill: Bill Pr71, An Act respecting the City of Kitchener and the City of Waterloo. The sponsor for this bill is MPP Gary Leadston, Kitchener-Wilmot, and the applicants are the Corporation of the City of Kitchener and the Corporation of the City of Waterloo.

I think both the sponsor and applicants are now at the witness table. MPP Leadston, I would ask you to make a brief introduction and please introduce the applicants for this bill.

**Mr Gary L. Leadston (Kitchener-Wilmot):** It's a pleasure to be here this morning. We certainly welcome the opportunity to have some dialogue and a positive outcome later on in the morning.

As you know from the accompanying material, the act is specifically an application for special legislation to regulate and prohibit the keeping and harbouring of certain classes and breeds of dogs.

The municipality I represent, Kitchener-Wilmot, and her sister city, the city of Waterloo, have experienced some rather horrendous situations with respect to a particular breed of animal. Because of that, the two municipalities came together and have developed this special legislation in hopes of addressing the concerns as they affect their municipalities.

We do have some pictures. We also have a video. I would caution anyone in the room that they're rather graphic. They've captured the essence of some of the attacks and also the aftermath. I emphasize again that they're very graphic. So for anyone who has a somewhat weak stomach, please don't hesitate to leave the room. I don't want anyone to faint on me.

I'd like to introduce the witnesses this morning. Mr Bill White is the spokesperson for the group. Perhaps you'd direct any questions to him and Mr White would then direct them to the other delegations that are with us this morning. Bill White is the city solicitor for the city of Waterloo. To Bill's left is Debra Arnold, the assistant city solicitor for the city of Kitchener. To Bill's right is Jake Smola, who is a councillor with the city of

Kitchener. Next to Jake is Berry Vrbancovic, who is also a councillor with the city of Kitchener. Both these gentlemen have spearheaded the efforts, along with their respective legal departments, to bring it to this level.

We also have in attendance Lew Ayers, who is the city clerk for the city of Waterloo, and Constable Randy Peacock, an officer with the Waterloo Regional Police Services. We also have Dr Gerhard Hess, who is the past-president and currently the general manager of the Kitchener-Waterloo and North Waterloo Humane Society.

I'll turn the following over to Mr White to lead us through the preamble.

**Mr Bill White:** Mr Chairman, honourable committee members, as indicated, I'm here speaking on behalf of both the cities of Waterloo and Kitchener, as are the other people who are with me.

Currently the Municipal Act gives municipalities the authority to prohibit all animals except dogs. In other words, under section 210, paragraph 1, of the Municipal Act we could prohibit or regulate cats or horses or wolves or boa constrictors or whatever, but we are limited as to the prohibition of dogs in particular. We're asking for this legislation to be passed to extend our authority to dogs, particularly so we can prohibit pit bulls. We want some flexibility in the legislation, or in the authority we respectfully request you to grant us, because pit bulls are not a recognized breed. That's why we've dealt with dogs in general.

Kitchener and Waterloo have a serious and unique problem with pit bulls. Others may have pit bulls, but our area has had a particularly serious problem with the number of incidents and the number of pit bulls in our community. The legislation presently limits our staff to take reactive measures rather than proactive measures. In other words, we have authority to deal with these things after somebody's been bitten or injured or an animal has been killed or whatever, but we don't have authority to deal with the problem before it happens.

We respectfully suggest that we can't wait any longer for the first bite, or in the case of a pit bull, the disfigurement of someone or even a fatal mauling. You'll see, as our presentation continues, some of the example I'm referring to.

Pit bulls are not like other dogs. For decades they've been bred as attack weapons, and when they do attack, the damage is often horrible and it can even be deadly. You'll see that in the examples we will present to you. Another dog could be injured or savaged, a police officer could be attacked, or a child could even die or be badly disfigured as a result of these attacks.

We feel very strongly, as our municipal councils do, that there's an urgent need for this legislation now. We



don't want to wait for another attack or another two attacks or whatever; we want to solve the problem in our area right now. If this might serve as a test case or whatever, that's fine, but we feel we must take this action now.

We have people here, and they've been introduced, who will deal with particular questions if you have them. I might point out that the cities of Edmonton, Winnipeg and Lachine have used similar legislation. We have contacted these municipalities and they're quite happy with the overall effect they've accomplished.

Through consultation with municipal affairs representatives, the Solicitor General's office and other government offices, I believe we've come up with a much better bill than we originally submitted, and we are ready to respond to any concerns you might have about the bill.

At this point, I would like to present councillors Vrbanovic and Smola. I'd like them to take over and indicate what's happened in Kitchener-Waterloo since January of this year in respect to the dog problems and particularly pit bull problems.

**Mr Berry Vrbanovic:** On behalf of the councils of the cities of Kitchener and Waterloo, I'd like to begin by thanking you for bringing this issue to your committee in such a timely manner. This issue has been of significant importance to the citizens of our two cities for a number of years. However, over the past year it has attained nearly crisis proportions.

With your indulgence this morning, councillor Jake Smola and myself, in conjunction with Constable Randy Peacock of the Waterloo Regional Police Services and Dr Gerhard Hess, general manager of the K-W humane society, will attempt to identify the uniqueness and the urgency of this issue for the residents of K-W. Councillor Bruce Alexander, our counterpart from the city of Waterloo, who has also worked on this with us, would have liked to join us today, however his teaching schedule didn't allow for it.

I would be remiss, however, if I didn't emphasize the partnership that has taken place between our two adjoining municipalities in dealing with this issue. This partnership was developed for two main reasons: First, it allowed both cities to share costs and resources thus avoiding duplication, and second, the partnership helped ensure that a resolution on either side of the residential street that divides our two municipalities doesn't create a problem for the adjoining city.

As you've been told so ably by Mr White, we are here today to request the authority to regulate and prohibit the keeping or harbouring of any class or breed of dog or any mixed class or breed of dog. As you're also aware, the intent of our council in obtaining this authority is to regulate and prohibit the mixed class of dogs commonly referred to as pit bulls.

Many of you undoubtedly question what makes pit bulls unique and why they are a problem in Kitchener-Waterloo. The person to best answer that question is Dr Gerhard Hess, general manager of the K-W humane society and a veterinarian himself. I'd now like to invite him to the table to speak to you on those issues.

**Dr Gerhard Hess:** I have written down a few notes on pit bull dogs. During the past year, we've had 16 people

severely bitten. We have answered literally hundreds of calls from people threatened by pit bulls. Six dogs were seriously injured or killed by pit bulls, besides a number who escaped. Many people are afraid to report incidents of pit bull bites and so on because of fear of retribution by the people who own the pit bulls.

Pit bulls are different. They have a much higher level of L tyrosine, leading to a much stronger arousal state than any other breed. They have a higher level of endorphins, which makes these dogs able to withstand a much greater amount of pain than other dogs. They have much greater jaw strength than any other breed. They are able to lock on to the animal they attack and they will not let go until that piece is torn out. They have a false body signal. Any other dog, you can recognize when they're showing friendship or when they're showing an attack. You can tell what the dog is thinking, more or less, by the appearance of the dog. With a pit bull, you can't. They have false body signals and they even show pleasure on attack by wagging their tails rather than showing anger.

The breeds that would be allowed are the Staffordshire bull terrier, for instance, the one that Don Cherry has, and the American Staffordshire terrier registered with the CKC. The breeds not allowed would be the pit bull terrier and the American bull terrier or pit bull.

We have it on the advice of a number of experts. Jim Brando from Toronto animal control says: "Pit bulls don't bite, they maul. They are a time bomb." Kathleen Hunter of the Toronto Humane Society says: "It's a truly aggressive dog. It's bred to attack without provocation." Dr Roger Mugford, an animal behaviourist from Great Britain, says, "Pit bull are completely unpredictable." In the literature there are very many examples of people talking about pit bulls, and some of them who have trusted them have come to regret their decisions.

Are there any questions?

1020

**The Chair:** Thank you, Dr Hess. Before questions, any other comments from the applicants?

**Mr Vrbanovic:** There's quite a substantial presentation yet, Mr Chair.

**The Chair:** If you wish to continue with the presentation.

**Mr Vrbanovic:** Certainly we can do that. I'd like to share with you, in conjunction with Councillor Smola, the Kitchener-Waterloo experience with this mixed class of dog. As I indicated earlier, the problems with pit bulls have always existed but never in such high numbers. Having said that, previous serious incidents have occurred, one of which saw a young girl in Kitchener have the hair torn off her scalp by a pit bull.

Today's numbers, however, speak for themselves of the danger associated with this particular mixed breed. With over 16 bite-related incidents on animals and humans associated with pit bulls since the beginning of this year, many citizens in our two communities are asking, when is something going to be done? We hope the "when" is today and would now like to share with you some of these incidents.

The profusion of incidents in 1996 began on January 15 with a dramatic incident that took place over some 20



kilometres in Kitchener's east side. The incident began in an industrial part of the city's Stanley Park area, with the dog travelling over 10 kilometres to the Chicopee area, where it attacked and ultimately killed a Labrador-husky-shepherd dog in its owner's backyard. This incident occurred within 300 metres of two elementary schools. With the police chase now on, this dangerous animal travelled back towards its starting point, passing by two schools again and forcing the students to be detained within their schools during recess. The dog was finally surrounded on a four-lane arterial road where it was hit by several vehicles and fired at 15 times, with three shots bouncing off its head before it finally fell to its death.

In your compendium you will find the articles entitled "Police Kill Pit Bull after Pet Mauled," and "Deadly Pit Bull was Tough to Kill" related to this incident. I'd also now ask Councillor Jake Smola to provide the clerk, for your viewing, photographs of the attacked dog to demonstrate the very serious nature of this attack. We considered providing the photographs as slides but felt it more appropriate to share them with you in the folder due to their graphic nature.

Finally, later in our presentation Constable Randy Peacock, who was on hand for that incident, will give his first-hand account of the situation.

The second incident which I'll reference today, also found in your compendium, occurred on March 5 in the city of Waterloo. In this incident, the dog attacked a bystander who expressed concern to the dog's owner about the dog's behaviour and subsequently attempted to attack the police officers who came to deal with this issue.

I'd now like to turn to Councillor Smola to take you through three more serious incidents which have occurred.

**Mr Jake Smola:** The three issues I will touch on have to do with the attacks on animals and humans. On April 2, a father of a four-year-old girl beat off with a bat a pit bull who had the girl within its jaws and was throwing her from side to side. Fortune had it that the girl only had a three-inch scratch on her arm, but the end result could have been significantly more dramatic. Please refer to the article entitled, "Man Uses Bat to Save Daughter from Dog," which can be found in your compendium pertaining to this issue.

Following this incident, the dog owner gave up the dog for destruction only to go and purchase a new pit bull within days. The subsequent intimidation which occurred towards the bitten girl and her parents was severe enough that it forced the family to relocate from that home.

The second incident which I wish to outline occurred on August 7 and is referred to in the article, "Twin Cities Seeking Tougher Laws to Prevent More Attacks by Pit Bulls," which is in your compendium. In this incident, a pit bull belonging to a friend of the family attacked the three-year-old son of that homeowner. This incident was probably the most tragic to an individual, requiring 40 stitches to the young boy's face. I ask that Berry distribute the picture, and again I just bring your attention to the sensitivity of the picture. As a result of the lack of a plastic surgeon being available that day, the child had the additional discomfort associated with having to travel to the children's hospital in London for treatment.

The final incident which I'd like to touch on has to do with an attack of another dog. At this time I would like to read to you a few short excerpts from the victim impact statement of Michael and Patricia Mooney, residents of the city of Kitchener and current owners of a purebred Saluki named Yasmin which was severely injured as a result of "an unanticipated and unprovoked attack by a female pit bull" while being walked on a leash by an employee of a local animal hospital. I'd ask Berry if he could run the file footage of —

**Mr Gilles Bisson (Cochrane South):** Excuse me. Chair, I'm more than prepared to vote for this bill. They have my support. I don't know, bringing all the graphic material in. I think we all at one time or another have had to deal with this issue in our communities in various ways, if not with pit bulls, with others. I'd rather that this video not be shown, quite frankly. You have my support. Let's end it at that.

**Mr Smola:** I understand. Mr Chairman, would it be proper for us to finish our presentation?

**Mr Bisson:** You can finish with it; I'd rather not look at that.

**The Chair:** Thank you, Mr Bisson. That's your wish on this. I think it is up to people if they want to watch it or not. You don't need to look at it.

**Mr Leadston:** If I may, Mr Chairman, I appreciate the comments from Mr Bisson, but I think the seriousness in terms of acquiring the necessary legislation for Kitchener-Waterloo — and obviously it could be applicable province-wide. As I indicated earlier, they're most disturbing, they're very graphic, but in the same sense I think it's necessary to have some exposure to what these municipalities have been exposed to, what the citizens have been exposed to.

We are legislators and I don't think any less of any individual in this room if they step out for a few moments while the remainder of the committee has an opportunity to view the video. It was shown on television, on CKCO in the various news broadcasts. But I do think it's necessary to indicate strongly the seriousness and the gravity of the problem that these two municipalities face and that many of the municipalities in our province face with respect to this problem.

**Mr Bisson:** Listen, I'd be willing to bet this is going to get 100% support on both sides. I'm prepared to vote for it. I don't need to look at the video. I think it's a bit of overkill. We've had to deal with this stuff before in our communities in various ways. Many of us have sat on councils before, we understand what the council is going through. I don't think it's necessary.

**Mr Bernard Grandmaitre (Ottawa East):** I think the bill that's before us makes a whole lot of sense for the simple reason that — and this is a little a commercial for me and my son.

**Mr Bisson:** Who messed with the mayor.

**Mr Grandmaitre:** Yes. My son, who was a councillor in the city of Ottawa, tried to pass a similar bylaw and failed, so I want to congratulate you on your courage. I realize this is a test case. But I would like to know, is this the only objection you've received? I have a letter from a Mrs Mary Zilney. Is this the only objection we've received, Mr Chair?



**The Chair:** Yes. Just to remind you, once the applicants have finished their presentation, we will go to questions, so could we defer that question until the applicants have finished?

**Mr Grandmaitre:** If you were to give me a yes or a no, Mr Chair, I'm ready to vote on this piece of legislation now.

**The Chair:** Okay, let's pose that question to the applicants briefly, but then I do want to go ahead with the applicants' presentation. They've put a lot of work into this and I'd like to see the completion of it.

**Mr White:** That is the only objection, that one letter. 1030

**The Chair:** Okay. I'd ask the applicants to continue with their presentation. They've put work into this video and I think that anybody here could go for a coffee break if they wish.

**Mr Bisson:** Chair, I move that we go to the vote.

**The Chair:** We have a motion before us. Seconder?

**Mr Leadston:** No, I'd like to comment, Mr Chairman. *Interjection.*

**The Chair:** Seconded by Mr Grandmaitre. Discussion on this motion?

**Mr Leadston:** If it's the question of the video, I'm sure the witnesses perhaps could have that at the conclusion of the meeting for those who are inclined to view the more graphic analysis of the situation. However, I would like perhaps if the witnesses could continue with their verbal presentation. In all sincerity, I think the gravity and the seriousness of the situation has to be reflected in Hansard. Believe me, I appreciate the very strong support that obviously is in this room this morning, but I think obviously for historical and legislative reasons it's important to have the verbal comments from the witnesses reflected in Hansard.

**Mr John Hastings (Etobicoke-Rexdale):** I would like to suggest that we have people here wanting to present their evidence regarding this proposed private bill, to which I do have some concerns. I also want to see the video, so therefore I will not be supporting a motion to simply pass a bill without its proper scrutiny.

**Mr Bruce Smith (Middlesex):** I certainly tend to agree with my colleague Mr Hastings in that regard, because there are some specific questions regarding the wording and formatting of the bill that I certainly would like to pose to the legislative counsel or ministry counsel and would appreciate that opportunity in advance of moving directly to a vote on the bill.

**The Chair:** We have a motion on the floor to call this for a vote now.

**Mr Bisson:** Recorded vote, please.

**The Chair:** Recorded vote. All those in favour?

**Ayes**

Bisson, Grandmaitre.

**The Chair:** Those opposed to the motion?

**Nays**

Boushy, Flaherty, Hastings, Leadston, O'Toole, Rollins, Shea, Smith.

**The Chair:** I turn the floor back to the applicants to complete their presentation.

**Mr Smola:** I would like to go back to the victim impact statement of Michael and Patricia Mooney at this time. I'm going to again take a portion of the victim impact statement. This is going back to Yasmin the dog: "The employee is walking Yasmin on the back lot of the hospital when suddenly from out of nowhere a pit bull terrier runs up and attacks Yasmin. The pit bull grabs Yasmin by the throat and tears her whole throat open, exposing her jugular vein and her oesophagus. The pit bull's jaws lock closed around Yasmin's throat and it takes three adults to pull the pit bull off of Yasmin."

If I could ask Councillor Vrbanovic to put the video in, and I just remind members that it is sensitive.

**Mr Bisson:** On a point of order, Mr Chair: I am more than prepared to support this particular resolution, but at this point, if we've got to start looking at videos, I'm withdrawing from the committee. I think this is a bad idea.

**The Chair:** Thank you, Mr Bisson. Mr Vrbanovic, will you run the video please and we'll wrap up the presentation.

**Mr Smola:** Upon arrival at the animal hospital, Michael says: "Our first visual impression of Yasmin is that she looks like a pound of raw ground beef. My wife gasped and immediately began to cry, as I did." After having surgery on two separate occasions and numerous checkups, Yasmin has been characterized as a full recovery despite some heavy scarring.

I'd like to read the prologue from the victim impact statement from Michael Mooney at this time: "We have noticed that since the attack Yasmin is less confident and much more tentative with people and unfamiliar situations. Whereas before, Yasmin always greeted other dogs, tail wagging and without reservation, she now either cowers if we are out for a walk or if she is inside the house and sees a dog, she snarls and barks aggressively. Yasmin is very much a changed dog as a result of this attack.

"My wife and I are set to have our first child around Christmas time. We are left to wonder how Yasmin will behave with the infant. Will she be gentle and loving as she has always been or will we have to watch her closely for signs of aggressiveness? Only time will tell. If Yasmin is anything other than gentle and loving, I know that my wife and I will both attribute it to this incident.

"As an aside, the vet bills for this incident must have totalled between \$2,000 to \$3,000. I am not able to give you an exact figure because the Kingsdale Animal Hospital absorbed the costs without ever being compensated by the owner of the pit bull. Speaking of the pit bull, it was captured after the attack. The local humane society has a very good idea as to who the owner of the animal is but this person will accept neither ownership of the animal or responsibility for its actions while running at large. The pit bull has been put to death, a victim of its irresponsible owner and its inherent bad breeding." It's signed by Michael Mooney.

I'd like to now turn it over to Berry for further examples of incidents with pit bulls in Kitchener-Waterloo.



**Mr Vrbanovic:** As the above examples have shown, there has been an abundance of incidents within the boundaries of Kitchener-Waterloo that have resulted in an impact on both animals and humans. Many of these incidents resulted in police attention being brought to the matter due to its severity. However, on April 12, police encountered an incident where they in fact were the victim. That night, police responded to an alarm at Desco Plumbing and Heating only to find three males leaving the area. One of the males subsequently stopped at a vehicle and picked up a pit bull on a leash. When officer Ben Coles ordered the man to surrender, the man ran away with the dog only to moments later release the dog, which then attacked the officer in question. The officer had to shoot the dog and was fortunate enough to only end up with a bite on his left shin.

In relation to how this whole issue relates to policing, our local police services board has opted to provide their support for our attempt to obtain this legislation. To discuss their concerns today, I'd like to introduce Constable Randy Peacock, a six-year veteran of the Waterloo Regional Police Service. Constable Peacock also serves as a member of our emergency response team and was one of the responding officers at the initial incident in January of this year.

**Mr Randy Peacock:** Mr Chair, ladies and gentlemen, this year in particular the Waterloo regional police have had a number of incidents involving dogs. A disproportionately large number of those incidents have involved crossbreed animals referred to as pit bulls. This year alone the department, through its officers, has destroyed four pit bulls in related incidents involving either animals being attacked, cattle, other family pets as well, one being an officer being attacked.

Further to that, in relation to the incident that was referred to earlier in January, where the animal had attacked a dog in a back yard, of which the pictures have been circulated, 15 shots were fired in the direction of the animal. I personally fired nine shots at the animal. Believing that I'm a reasonably good shot, I hit it all nine times. We shot at the head of the animal in the hope of destroying it. However, due to the breeding of the animal and the shape of the head, there's a tendency that the ammunition we're using in our service pistols doesn't penetrate the skull, and we have a concern that we then have to go to the chest portion of the animal to destroy it, the problem being, when the animal is coming at you, you have nothing but the head as a target, to be quite honest with you, and that tends to be a problem with that.

The concern earlier that was mentioned by the councillors, this particular incident took place starting at approximately 11:45 in the morning and ran throughout the noonhour, passing the proximity of two schools, which police automatically contacted and had the students retained in. Paramount was the public safety. Because this animal had just attacked a pet, we were concerned a child perhaps playing in the school yard could be the next victim. Obviously, due to the nature of this particular animal, we continued somewhat of a pursuit a little bit longer than perhaps a normal call would run, the reason being that public safety was paramount.

1040

In particular to the night of the incident that was referred to in which Officer Coles was attacked by the animal, Officer Coles personally spoke to me last week, and he no less than five times told the owner of the animal to restrain the animal so that it would not be a concern that the animal would be let loose and, obviously, attack him. After five warnings, the male party let the animal go and turned and fled, and the animal attacked the officer.

I personally this year have been involved in approximately six to seven calls involving pit bulls, whether they've bitten somebody — in a certain case, a couple of people came to the aid of a small Maltese which was attacked by a pit bull that ran right out the residence front door and attacked this small dog on a leash unprovoked. A gentleman came to the aid of the owner of the small Maltese, and for his troubles he got both hands severely mauled by the dog. As well, when the owner came out to restrain his pit bull, it then turned on the owner, chewing him several times.

In particular, the last incident involving police where we had to destroy a pit bull was actually in the city of Cambridge, but because the service covers the region, a fellow officer on the emergency response team had to destroy a pit bull. It was running at large and had gotten loose from the farm and attacked a cattle beast. It actually had that cattle beast by the throat and had flipped the cattle beast on to the ground several times. After being wounded once by the officer, using a shotgun, it then attacked the cattle beast again and had to be shot two more times before it was put down. Under the livestock and poultry act, we have that authority outside the city.

Our concern is that, especially this year and not so much in the latter part of last year, we've had a huge, disproportionate number of dog attacks involving this particular breed or crossbreed. We're quite concerned, public safety and officer safety being paramount, that we're running into this. Realistically, we're overconcerned maybe in some respects, but one more child hurt justifies this bill proposed.

**The Chair:** Thank you, Mr Peacock. Does this conclude the comments?

**Mr White:** Yes, it does, Mr Chair.

**Mr Vrbanovic:** Mr Chair, there is a bit of a wrapup yet with Councillor Smola and myself, if we may.

**The Chair:** Yes, go ahead.

**Mr Smola:** Having taken you through the countless examples of incidents within Kitchener and Waterloo, we would now like to briefly take you through the stakeholder discussions which have taken place. This is, as you are aware, a cooperative effort with the cities of Kitchener and Waterloo, and both councils have fully endorsed this application. Prior to actually submitting the application, we met with representatives of the executive of the K-W Kennel Club, who provided their support for the city enacting a bylaw to regulate pit bulls, including input into regulations which may exist in the final bylaw.

The viewpoint of much of the community which we have heard is echoed in this videotape of Linda Culver, a pit bull breeder in K-W, and it's not graphic by any means.

*Audio-visual presentation.*



**Mr Smola:** Thank you, Berry. The relationship discussed by Mrs Culver which exists between irresponsible owners and the problem dogs was the focus of our discussion with the Waterloo Region Veterinary Association in September of this year. This organization concurs that typically these mixed breeds referred to as pit bulls are dangerous and are generally not owned by responsible owners. As such, they concurred that unfortunately the only way to effectively regulate them is through prohibition.

With the support of this committee today, we can move forward with our bylaw proposal and continue our efforts in obtaining additional stakeholder input. Prior to the passing of a new bylaw, both cities will form a committee consisting of the public and the above-mentioned stakeholders to formulate a fair bylaw that will balance the rights of dog owners while allowing us to regulate and restrict pit bulls to ensure public safety remains permanent.

**Mr Vrbancic:** In summary, we believe we have demonstrated both the uniqueness and the urgency of the situation before you today. The urgency of the situation is evident from the combined impact realized from the number of attacks in this past year in conjunction with the danger realized from the genetic disposition of pit bulls as outlined by Dr Hess. We feel the Kitchener-Waterloo area is unique in that no other municipality, to our knowledge, has had such a large number of incidents in such a short period of time. These incidents have impacted animals, law enforcement officers and the general public.

Although the death of a human has not occurred yet, we feel this mixed breed is a time bomb waiting to explode and one day we will have a citizen fatality. In this regard, as the elected representatives of the citizens of Kitchener and Waterloo, we urge you to support this application before you today.

**The Chair:** I wish to thank all the applicants for your presentation. Before we go to comments from representatives of the provincial government, are there any other interested parties that wish to speak to this issue? Seeing none, I would now turn the agenda to the parliamentary assistant for municipal affairs, Derwyn Shea, for comments on behalf of the government.

**Mr Derwyn Shea (High Park-Swansea):** I think we all agree that the evidence presented today is graphic and it is disturbing, and those of us who have served on municipal councils and at other levels of government understand the issue that's being raised before us. As my colleague Mr Hastings points out, the issue does take on another aspect to it that we should be concerned about as government, and I think all members of this committee will understand and share that exercise of our legislative responsibility.

Let me begin by saying that the government has no objection to the bill as it is presented, but it has some concerns about it in a broader sense that it wants this committee, at least would welcome this committee, to give consideration to. There are some significant issues that are presented by the bill.

First of all, there is obviously a basic shift in policy that this bill represents that the committee needs to

wrestle with, and this is where one is beginning to shift away from the issue of behaviour to the issue of breed, and that is a fundamental change in legislation in the province of Ontario and we need to be aware of that.

Secondly, those of us who have served on councils will understand the old issue that you may very well move one problem from one area to another area, the checkerboarding effect. The councillors from Kitchener and Waterloo are not empowered nor do they carry the mandate to have to be worried about, in the first instance, what may happen in other jurisdictions. They are charged with the responsibility of being concerned with what's happening in their jurisdiction, and that is right and proper.

But, clearly, we have to be concerned about the ripple effect. For that reason, the Ministry of Municipal Affairs and Housing is in fact in the process of revising the Municipal Act. We have been suggesting that will all be in place well before the 1997 municipal elections. At that time, it may be more appropriate to embrace the kinds of legislative changes requested here in a more comprehensive way that would apply to all municipalities across the province. That is at least an issue I put before the committee on behalf of the government for its consideration at this time.

The third concern that we have would reflect with section 3 in Bill Pr71, which is the issue of conflict, and that is to suggest that in case there is anything in conflict between the Municipal Act and this bill, this bill would override. In fact, it may well be that this should not be in this bill, that we should say, "No, the Municipal Act is still the empowering piece of legislation." But I put that before the committee for its consideration and amendment if it thinks it's appropriate.

I have with me today to engage in the discussion, because I think we have some questions that may be raised by members, to aid us, along with the questioning that will go on with the deputants, Jim Young, the assistant deputy minister of public safety, Solicitor General and Correctional Services; Tom Melville, as we all know, legal services from municipal affairs; and Helen McLean, the local government policy branch of municipal affairs as well. We have some other staff here if it is necessary as we go through any detailed evaluation of the bill, not to prolong it unnecessarily but to give it the appropriate consideration it is due at this point.

With that, I've given the overview of the government's position. Chairman, as far as I would be concerned, the matter is now in the hands of the committee unless you would give us the opportunity to ask Mr Young if he'd like to make any comments, particularly from the Sol Gen's point of view, if I can just ask him to take over.

1050

**The Chair:** Any further comments on behalf of the government?

**Dr James Young:** If I may, animal welfare falls under the public safety division of the Ministry of the Solicitor General and the main function as a liaison and administration of the act that controls the Ontario Humane Society. Our interest in this particular issue is because animal welfare does fall under our purview.



I think it's important to emphasize that this is a watershed decision in the sense that we are changing from a focus where we dealt with behaviour of dogs to deciding in fact that a breed of dogs will all be classified in a certain way.

There are a number of pieces of legislation that currently relate to dogs. They include the Municipal Act and the Ontario Society for Prevention of Cruelty to Animals Act, which is the act that I administer. But there are two other important pieces of legislation that I would emphasize. One is the Dog Owners' Liability Act and the second is the Criminal Code of Canada. The key to that is that we have had problems from time to time, and I acknowledge the serious problem that Kitchener-Waterloo is experiencing. These kinds of problems with vicious dogs exist across the province. They certainly can involve pit bulls. It's always been recognized that they may involve other breeds of dogs as well, that vicious dogs in general can be a problem.

The approach of government in the past has been to recognize that vicious dogs exist rather than going after a particular breed, and to approach it from the problem then that if the dog is not controlled properly, the dog will be dealt with, but more importantly, that it's the dog owner who is responsible for the actions. That's certainly something we've heard a great deal of this morning, that ultimately it is the irresponsibility of the owner.

What this legislation proposes to do is to take that emphasis — it certainly leaves responsibility with the owner, and I wouldn't suggest other than that, but it also says that it's not just behaviour that will make the difference; it's now saying that particular breeds of dog will no longer be tolerated in an area.

It goes further than that, because the penalty is not a major fine for harbouring a banned animal. It says that if it is a particular banned breed of dog, the dog will be killed and eliminated. There are those who will support that strongly, and I certainly understand that. I would suggest to the committee there will be those who are bothered by that concept as well, though, that a dog who has had no record of doing anything may in fact be destroyed simply because the dog exists.

When something happens of the nature of the dog, Holly, who was allegedly dragged behind the car, that received a great deal of publicity. That matter resulted in literally hundreds of letters being sent to our ministry about that particular animal. So I would suggest to the committee that killing dogs based on breed alone, while it will be supported by many, may not be supported by all.

It's also a further concern of ours that if the act is passed in regard to these two areas where we acknowledge they are having some problems, one of the remedies may be that dogs are moved into the outlying community and, as Mr Shea mentioned, we may end up solving a problem in Kitchener-Waterloo and creating a problem in outlying municipalities in the rest of the region of Waterloo by increasing the population of pit bulls or other vicious dogs in those particular areas.

Part of the solution to this I think is that if the philosophy of government is going to change and we're going to an area of behaviour rather than breed, and if we're

going to enact legislation, perhaps the legislation should be provincial in nature and apply to all municipalities or at least give the option to all municipalities, rather than dealing with two municipalities first and then dealing with a series of private members' bills that follow.

There is consideration of changing and an undertaking by government to change the Municipal Affairs Act in the near future. There is also certainly review right now of an animal welfare act within the province of Ontario. There's been no announcement of when legislation will be forthcoming, but the whole matter of animal welfare in the province is under review.

Our ministry as well is concerned about the conflict clause. There is a body known as the Animal Care Review Board which currently reviews seizures under the OSPCA Act. We believe there may be considerable confusion then if there are municipal acts and there are seizures under your Municipal Act rather than by the OSPCA. It may result in a considerable problem as to which act overrides which act and whether appeal bodies are in place or not in place. We would suggest that there should not be a conflict clause that overrides existing acts. It would override not only the Municipal Act but also the OSPCA Act. We believe the OSPCA Act should be the act that is supreme in a case like this.

As a matter of administration, but to raise the flag, we believe there may be some problems with the actual administration of an act such as this with regard to the issue of entry. What would be asked for under POA legislation is that they would be asking for an order to go to a home on the basis of the belief that a particular breed of dog was in the home and in order to enter that home. We believe there may be some reluctance on the part of the courts to grant orders to enter on the basis of a belief that a particular breed exists. We have nothing to base that on other than a considerable amount of case law that restricts entry into private dwellings in general and searches and seizures in general. The courts are reluctant to broaden powers too much.

I think our major issue, however, if this committee wishes to proceed with this bill, is that there should be a recognition that it is a change in focus from behaviour to breed. Our suggestion is that certainly that could be done. The matter could be studied further. It could exist in broader legislation as well. Those would be the options that we bring forward.

**The Chair:** Thank you, Dr Young. We now go to questions from the committee members, questions directed either to the applicants or to those speaking on behalf of the government. Mr Leadston, I have a number of people lined up for questions. Did you have another?

**Mr Leadston:** I'd like for the record to have it clarified that this process, emanating from the councillors from both municipalities and myself and my office, started at least a year or more ago. There have been extensive meetings and dialogue with respect to both ministries.

With exception, I think everyone in this room is a servant of the public, and as legislators and as staff, I would like to think that we're on the same team, whether you're a legal counsel to the ministry of one or the ministry of the other, or whether in a municipality. The



concerns that have been raised by the ADM and by the parliamentary assistant — I respect the opinions. However, the severity of this piece of legislation came about because of some rather horrendous experiences in our municipalities. We started the process. The same explanation was given: "Perhaps you could wait until the Municipal Act is changed." Well, unfortunately, while the legal counsels, with all due respect, are communicating and networking and negotiating, the incidents continue. The incidents become far more severe. With all due respect, I don't think we can wait until the changes are made to the Municipal Act.

1100

I think this would be a prime example, to give the two municipalities the opportunity to have this legislation, to have the experience of perhaps a year or whatever period of time it takes until the Municipal Act is changed. Then you've got a foundation in terms of making any minor or significant changes to the act so that it's applicable provincially.

I don't think we can wait. The two municipalities have waited very patiently, the community has waited very patiently, and yet the incidents have continued. It's not a perfect solution, but for these two municipalities it's the solution that's at hand and that they need to address the concerns in the community.

**The Chair:** It is now time for committee members to ask questions. Mr Grandmaître.

**Mr Grandmaître:** I realize that a lot of consultation has gone on between the two ministries, and now, Mr Shea, did I hear you right that you feel so strongly about this type of legislation that's before us this morning that you're ready and willing to include it whenever a new Municipal Act is in place? Did I hear you right?

**Mr Shea:** What you heard me say is that the Municipal Act is being completely reviewed and overhauled and it is the minister's intent to have the new legislation in place well in advance of the next municipal election in 1997. It is further the suggestion that because this is a watershed nature of legislation — that, as you've heard the ADM mention, it shifts from behaviour to breed — and because it has implications province-wide, it probably ought to be given consideration for inclusion in the revised Municipal Act and therefore empower all municipalities to be able to deal with it in some enabling fashion.

**Mr Grandmaître:** But my question is, can we get the assurance from you this morning that municipal affairs will have this type of amended legislation included in the Municipal Act?

**Mr Shea:** It is my understanding that this is certainly one of the areas that requires a great deal of attention and revision in the Municipal Act.

**Mr Grandmaître:** It will be included.

**Mr Shea:** It is my understanding that this will be part of the discussion and I have no reason to think it should not be reflected in one shape or another in the revised Municipal Act.

**Mr Grandmaître:** Could I ask the ADM how he feels about this?

**Mr Bisson:** You've been around, Bernie. You understand how it works.

**Dr Young:** I don't set government policy, first of all, member. I've been around a while too.

**Mr Bisson:** We know how ministries work and how government works.

**Dr Young:** I would want to clarify one thing. I acknowledge the act was introduced some time ago. In fact, we became only aware of it in Sol Gen a couple of months ago, so our consultation with Waterloo has been limited, to say the least, to yesterday. So we haven't had a long time to consider it. The answer is that I believe the ministry at this point in time does not have a firm policy on this matter.

**Mr Grandmaître:** In other words, you're telling us, "Pass this private member's bill and we'll work on it."

**Dr Young:** I'm not advising the committee. I'm just raising the flags, sir.

**Mr Grandmaître:** Thank you for raising the flags.

**Mr Bisson:** Let me go through it this way: What the bill does under section 1 is, first of all, give the municipality the right to prohibit the keeping of certain types of dogs within our municipalities. I understand what the ministry is saying, but quite frankly I'm on the side of the municipality on this one; I think they should have that power. There are certain types of dogs that are a problem. It is a question of the characteristics of the dog. As I said earlier, we've all had to deal with this in one way or another, if not as MPPs at least in municipal councils, where those particular types of dogs have been a problem. The problem has always been that the municipality can do nothing about it. I believe that, yes, the municipality should have the right to regulate the keeping of certain classes of dogs within the municipality.

The second part, and I move to clause (a) of subsection 1(1), basically says how dogs are to be controlled as per subsection 1(2). In other words, what you're doing under section 1 is saying, all right, we're not only able to prohibit certain types of dogs, but for certain other dogs that are accepted as being able to be part of the community — in other words, the municipality allows them to be there — the municipality can regulate how those dogs are to be kept: They're to be tied, they're to be kept in their yards, they're to be muzzled or whatever it might be. As such, I don't think that's a problem either. I think that makes a lot of sense because other types of dogs, for example, some of the larger breeds, you don't want them roaming the streets of our community. They may be perfectly good dogs, but sometimes kids don't know the danger, or even sometimes adults, and do something the dog doesn't understand and all of a sudden, woof, you're at the receiving end of the dog's wrath.

Where there is a problem, though, I do believe, is under subsection 1(3). I think what you should do there — just follow me through here. I am really leery about saying, "Let this bill not go anywhere and we're going to let the Municipal Act deal with this," because Bernie and I have been around long enough to know what that means. The reality is, in all fairness to the parliamentary assistant, there are bigger fish to catch on the part of the Ministry of Municipal Affairs and Housing, and I don't think the city of Waterloo or Kitchener is going to really find itself in any kind of way being on the benefiting side of that.



I think we need to deal with it here, because in the end, if this legislation does anything, it will at least keep the government's feet to the fire, because understand something: If we pass this today, it has to come back to the House. The government House leader is going to be the one who is going to decide if this bill is actually enacted. If we let this bill die now, my sense is that you're not going to be able to get enough power; you're not going to be able to get this on the agenda of the Ministry of Municipal Affairs and Housing. They're trying to restructure a whole metropolitan city; do you think they're interested in dogs in Kitchener? Let's be true here.

I say, if anything, we have to pass this bill now with a slight amendment so that at least the bill is before the House and at the very least it keeps the government's feet to the fire. I'm not too worried about the government members on this committee, because I think they're sort of coming from where I'm at. They understand what the problem is here. But at least you're going to keep the government House leader's feet to the fire and the Minister of Municipal Affairs and Housing's feet to the fire, because they will have another reason why they need to do something, because this bill will be here, and the local members will be able to point that out on a number of occasions.

The only thing I think needs to be done is that subsection 1(3) is a bit sweeping. If I read subsection 1(3), if you will allow me, it says, "A bylaw passed under subsection (1)" — which deals with the regulating and the prohibiting of dogs — "may provide that dogs of a regulated or prohibited class, breed, mixed class or mixed breed may be seized, impounded and killed." That's sort of like dealing with it after the fact.

I would tend to err a bit on the side of the parliamentary assistant and say what this section should do is say that in the event that there's a problem, this is the power that the municipality has. In other words, we're going to prevent certain dogs from residing within our communities, we're going to give the municipality the power to regulate how those dogs are to be contained and dealt with in a municipality, but only in the event where there has actually been a problem will we give them the ability to seize and kill dogs. I'm not going to go through the argument, but I think the parliamentary assistant to the deputy minister made the argument fairly well.

I would later on move that we strike subsection 1(3) of the bill and I will write something else up that I think might be more suitable in order to give the municipality the power to dispose of a dog in the event of an incident, not just because all of a sudden the municipality says a particular dog is not allowed. With that, I thank you very much.

**The Chair:** Next question, Mr Hastings.

**Mr Hastings:** It's passing strange that at the start of this meeting Mr Bisson wanted to pass the thing lock, stock and barrel. Be that as it may, Mr Shivas from the city of Kitchener —

**Mr Bisson:** I always thought you were passing strange.  
1110

**Mr Hastings:** I have the floor, thank you, unless you want it.

Could you identify for us the number of times you have exercised the bylaw — I presume that you have — under the Dog Owners' Liability Act to go after the owners of these animals to recover your costs for policing etc? Has there been any action taken in that area? Have there been charges laid at least, and any court cases completed by now?

**Mr White:** We haven't gone after anyone for costs. There have been charges laid and we have used that act, but after some bad thing has happened. After there has been a bad incident we have used that act, and that's all we had to use, and that has resulted in dogs being destroyed through a court order.

**Mr Hastings:** Have you in fact had 16 charges laid, then? That's the number of cases I heard from Constable Peacock, that those were the number of incidents that occurred.

**Mr White:** Perhaps Kitchener representative Debra Arnold could add to my answer.

**Ms Debra Arnold:** Dr Hess noted that there were 16 attacks to date in 1996, and I believe in most of those instances the humane society staff were able to persuade the dog owner to voluntarily submit the dog to be killed without court proceedings to seek an order for the dog's destruction. The significant difference between bringing a proceeding under the Dog Owners' Liability Act versus our proposed bill is that the Dog Owners' Liability Act is a completely reactive proceeding. I would draw to the committee's attention that in the five or so incidents that were recounted to you, those dogs had not exhibited prior behaviour that would bring forth the ability for the municipality to bring proceeding under the Dog Owners' Liability Act, so we could not take steps to prevent these attacks, whereas if we had the authority under the bill proposed and before you today, we would be able to take proactive steps to deal with the pit bull type of dog before any incident or tragedy occurred.

**Mr Hastings:** Two other questions and then I'll let other people get at it. Are you folks amenable to ensuring that before a dog is killed, a research lab would have an opportunity to have that creature for research and development purposes? There are many, many beneficial uses that can be made out of animal research for the enhancement of our wellbeing in terms of health care. It bothers me very much that the option is as soon as they're captured, boom, they're dead, even though they're a very dangerous type of beast, I understand.

My second concern is, are you folks prepared to consider having this bill limited, having a time frame on it in terms of two years until the municipal affairs ministry and Sol Gen can come up with more appropriate legislation that deals with this issue on a province-wide basis?

Thirdly, are you prepared to consider having this act not exceed the powers of the Dog Owners' Liability Act?

Those are the three major concerns I have.

**The Chair:** Do the applicants wish to divide up those questions?

**Mr White:** In respect to the first question, the research aspect, we'd be in the hands of the humane society. Dr Hess could respond to that.

**Dr Hess:** There's a policy of the Humane Society not to give up any animals for research.



**Dr Hess:** At the present time there is a policy by the humane society not to give up any animals for research.

**Mr Hastings:** That's a major problem for me then.

The next question concerns the time frame, if a two-year pilot project, whenever it got passed, would be suitable to deal with your particular problem. I'm very supportive of Mr Leadston coming here with his concern, but also balancing it out with municipal affairs' and Sol Gen's concerns regarding —

**Ms Arnold:** Just a final comment on the first issue, the animal research issue. I believe, and I haven't researched this, there is also, in addition to the Humane Society's policy, provincial and perhaps federal legislation governing animals used for research, which obviously we would have to comply with.

As far as putting a time period or expiry date on our bill, I suppose, without talking to my colleagues, it's possible that the bill could be repealed upon enactment of substantially similar provisions in the Municipal Act. I suppose we would be agreeable to that. I hesitate to put a time deadline on it just because the wheels of Municipal Act reform may not turn that quickly, within two years or whatever set date that might be —

**Mr Hastings:** There is the reverse argument that if you don't have a time frame, that means that government as a whole just lets it go on forever.

**Ms Arnold:** We're mindful of the difficulty that has been alluded to, the difficulty of smaller municipalities in trying to drive Municipal Act reform for the entire province, so I suppose we'd want to see substantially similar provisions in the Municipal Act amendments before we would be agreeable to our bill being repealed. That's your second question.

**Mr Hastings:** The third one deals with having this act supersede the Dog Owners' Liability Act.

**Ms Arnold:** I think the Dog Owners' Liability Act is aimed in a different way, as has been mentioned. The Dog Owners' Liability Act is aimed at behaviour, and I believe the municipalities would continue to use that act where appropriate on specific dogs of various breeds that aren't pit bulls, that haven't been prohibited, where this particular dog is a mean dog and has shown a propensity to be dangerous.

We see our bill as being proactive and taking a different direction from the Dog Owners' Liability Act, but I don't see it as a major shift in policy because municipalities have had for many, many years the ability to prohibit breeds of animals, any breed of animal. Siamese cats, hamsters, any breed of animal that a municipality wanted to, it has the authority, currently, and has had for many years, to prohibit. Our bill is simply seeking to extend that general authority to prohibit breeds of animals to include breeds of dogs. We feel that it's necessary to take a proactive stance on the danger that pit bulls pose in our municipality and not rely on after-the-fact, after-the-tragedy, after-the-injury proceedings under the Dog Owners' Liability Act.

**Mr Hastings:** Mr Chairman, did we get a letter of objection, and if so, are there copies available of that letter, that outlines what the other side of the coin is on this?

**Clerk of the Committee (Mr Tom Prins):** We did receive one letter and that was distributed out. I can get additional copies for you now if you'd like.

**The Chair:** Do people have copies of this letter of objection?

**Clerk of the Committee:** It's from Mary Zilney, August 26, 1996.

**The Chair:** I'm going to go on. The next question is from Mr Shea.

**Mr Shea:** Thank you, Chairman. We start taking a look at silos and we see various ministries involved in this: the Solicitor General, municipal affairs and the Attorney General, and it's one that we've all become familiar with in terms of one silo doing things that may not always be in concert with another. Certainly with the suggestion that is being offered here, it strikes me that there now would be a chance for municipalities to override the SPCA and some of the act that governs it, so there is some concern about how section 3 in Pr71 is applied.

But I'd like to go to a couple of questions to the deputants, and I'm not really fussed terribly in which order or who answers on behalf of the deputants. This would help me a little bit to understand.

1120

By way of preamble, I've just done a very quick review of the Dog Owners' Liability Act, and it probably wouldn't be a bad idea if we were to ask the Attorney General to give consideration again to the terms and conditions of that act. When I see that the major fine is \$5,000, and one of the points being raised here has been the fact that in many cases it's less the dog and as much or more irresponsible owners, the enabling legislation simply doesn't give appropriate punitive action to bring to the attention of owners the significance of what's happening, and that should deal with things like puppy mills and a whole range of other things that municipalities should be able to respond to.

We talked about 16 incidents in Kitchener-Waterloo in the past year. Does the deputant have any sense of how that compares to the number of incidents in other municipalities? Is Kitchener-Waterloo the aberration in Ontario? Is there something specifically unique that's happening there as opposed to somewhere else that we ought to be aware of?

**Ms Lisa Pasternak:** I'll speak to that. My name is Lisa Pasternak and I'm associate solicitor with the city of Kitchener. I phoned around to several other municipalities: Hamilton, London, Windsor, several areas. It's hard to get hard numbers on pit bulls. They aren't often defined in licensing as pit bulls; owners will call them something else. But I specifically used the attacks, and also the numbers that you find in the humane society letter, of 50 caught running at large in Kitchener-Waterloo in 1995, and only two of those were claimed. The response was that we certainly had a problem on a scale that they do not experience.

**Mr Shea:** I see. So there seems to be some sense that there's something unique about Kitchener-Waterloo region as opposed to other areas of Ontario. Were those 16 incidents all involving pit bulls?

**Ms Pasternak:** Yes, they were.

**Mr Shea:** Every one was a pit bull?

**Ms Pasternak:** Yes.



**Mr Shea:** Have there been incidents with any other breed at any time?

**Dr Hess:** Yes, there are other breeds involved but their bites are — they seem to be able to be chased off or they're very minor single wounds and so on. The department of health doesn't keep a register of it. The only register we have is of the ones we know personally that have gone through the humane society in some way or other.

**Mr Shea:** This legislation then intends to single out specific breeds or a breed. It's focused particularly on one breed and/or mixed breed. Is that the case at this point? Even though you're empowered to pick and choose, it will focus on at least one to begin with. Is that right?

**Ms Arnold:** If I could answer that question. The difficulty with the pit bull type of dog is that it's not a recognized breed. A pit bull is actually composed of a number of breeds which unscrupulous breeders seek to create a meaner and meaner dog. The pit bull type of dog is constantly evolving as unscrupulous breeders introduce other types of breeds into the mix to try and create a meaner type of dog.

Although there were 16 attacks in 1996, I think it is important to emphasize that there were 50 pit bulls running at large, so the potential was there for any of those dogs to attack, as the examples that have been given.

**Mr Shea:** Your answer, Ms Arnold, leads to the next question: If it's difficult to know the breed, and you've indicated there may be degrees and variations, how do you define which dog is killed? How do you define which one is actually prohibited and who makes that decision?

**Ms Arnold:** That's where the bill provides for notice to be provided to the dog owner, where the dog owner is known. As you can see from the stats, a number of these dogs are simply running at large. Notice will be provided and an opportunity for an appeal and a hearing to be conducted, and evidence put forward by the municipality by a qualified veterinarian to establish that the dog in question is a composition or a mixed breed of the certain types of breeds that make up a pit bull. We hope to have the flexibility in our bylaw to address the evolution of this type of dog, as I've mentioned, to keep up with these breeders who are breeding meaner and meaner dogs.

**Mr Shea:** So of two dogs at large, one may very well live and one may be executed based upon a decision of whom?

**Ms Arnold:** The municipality already has the authority and has had for many years, under the Municipal Act, to seize, impound and kill any dog running at large. In fact, if a pit bull is picked up running at large we don't need to go through other procedures in our bylaw if this bill is passed. We have the authority already under the Municipal Act to destroy any dog found running at large and, sad to say, that happens literally thousands of times a year.

**Mr Shea:** This simply, in your mind, then extends the ability to go beyond just running at large to saying, "You will not be within a municipal boundary, and further, we will have the right of access into premises if we have

reason to believe that there might be a breed of that sort harboured in that premise."

**Ms Arnold:** This bill will not give municipalities the right to enter on to private property. We are governed by the Charter of Rights and Freedoms, and it is anticipated that if in certain circumstances it's necessary to obtain access to private property, we would comply in all respects with the search warrant application provisions in the Provincial Offences Act and a court order would have to be obtained to enable an officer to go on to private property. That would ultimately be subject to the scrutiny of the Charter of Rights and Freedoms, and we have no quibble whatsoever, obviously, with that.

**Mr Shea:** The powers of the bill: In your mind it's not appropriate to address the matter of owners' responsibilities and so forth. That should be posited in another bill.

**Ms Arnold:** Maybe I could make an analogy here with gun control laws in this country. The debate rages that there are responsible gun owners, and there are responsible dog owners. However, the federal government has seen fit to prohibit certain types of weapons, semi-automatic and automatic weapons. So no matter how responsible a gun owner might be with a machine gun, he can't have one.

Similarly, with the case of pit bull dogs, there may be a dog owner who could be extremely vigilant, extremely cautious and careful, but accidents happen: Dogs break their chains and escape. But maybe there are dog owners who could own a pit bull for many years without incident. Unfortunately it hasn't been our experience that most owners of these dogs fall into that category. Similarly to gun control legislation, we're seeking to take a proactive stance and say that these dogs cannot be permitted.

**Mr Shea:** The final question then, and this may go to the members of council: How extensively and fully do the members of council intend to consult with the public before passing any bylaws under these provisions?

**Ms Arnold:** We anticipate that public advertisements will be placed and public meetings will be held. If you've ever been to a city council meeting or a Kitchener-Waterloo meeting in particular, you'll know that there is ready and abundant access to council meetings before a bylaw is passed so that not only interested members of the public but the K-W Kennel Club, our local humane society and any other interested party will have ample opportunity to exercise their democratic rights. Let's face it, our councils face re-election every three years and they will respond to voters' wishes in drafting a bylaw pursuant to this bill, if passed.

**Mr Shea:** I appreciate that. I'd just like to hear from another member.

**Mr Vrbancic:** Certainly it is our intent to go forward in the manner described by Ms Arnold. There has been considerable discussion and opportunity. As Councillor Smola indicated earlier, we've already had considerable discussion about what some of the ideas are for our proposed pit bull bylaw with the humane society, with the local kennel club and with the local veterinarians' association.

This issue has received incredible amounts of media attention, and by far the great majority of contact that



I've had with constituents both in my ward and outside of it has been favourable towards this type of legislation. However, we feel that if we get the authority from this committee and from the Legislature ultimately, it's imperative that we approach the community one final time, in the drafting of the bylaw, to receive any additional input and concerns citizens might have in this regard.

1130

One of the things I can mention that we've had in our discussions with the various parties so far in terms of a potential draft, one of the issues being considered, is the potential for grandfathering the existing licensed animals with certain conditions, recognizing that they may very well be owned currently by responsible owners. We want to take that into a certain degree of account.

**Mr Shea:** I gather from your response that it is not in the mind of council to seek warrants of entry where there may be some suggestion that a breed that is prohibited is being harboured.

**Mr Vrbanovic:** No, It's quite clear that we don't live in a military state, and nobody's suggesting that we're going to head in that direction. This will be dealt with in the manner that if there are licensed dogs and dogs that are not permitted, it'll be handled on a complaint basis, and if it exists it'll be investigated. If there is any need to pursue matters, I would presume and only assume that it'll be handled in the manner allowed for within the laws of this province and this country.

**Mr Shea:** Assuming Kitchener-Waterloo is given this enabling legislation, assuming for a moment that an adjacent municipality now seeks similar legislation but with a different breed, would that in your mind pose any conundrums?

**Mr Smola:** Mr Chairman, if I could respond to that, I just want to go back to what we see as the process in developing our bylaw and putting in the proper checks and balances. We've gone to interested individuals and the community as well. I see the police having a representative on the policy committee formulating the bylaw as being beneficial. I also see a representative from the humane society, along with representatives from the local veterinarians' association and the kennel club and I would hope that other municipalities — this is what we plan on doing, and of course this is all done through an open public process.

You can't have a bylaw that would be fair without having that input from the professionals who deal with dogs all the time. I think that's where we're going to be successful in developing a bylaw that will address the concerns we have with the support of those interested groups.

**Mr Shea:** Now could you answer my question? I understand your preamble and I appreciate that. Can you perhaps just respond to that final point about what I referred to as the checkerboarding, which I think you would understand. The fact is that Kitchener-Waterloo may very well suggest that this breed is prohibited. An adjacent municipality may say, "No, that breed is all right, but this breed is prohibited."

There are two sidebars to that. First of all the prohibition in Kitchener-Waterloo may have an impact upon an

adjacent municipality, and that municipality's counter-response may also have a problem of confusion, which is one of the reasons we seek some discussion in the committee about including all of this in an omnibus for the revision of the Municipal Act so there's some consistency across the province. You might like to respond to that.

**Mr Vrbanovic:** If I may, Mr Shea, I think in dealing with this checkerboard issue, we need to remember that the whole issue already is a checkerboard with respect to all other types of animals as regulated by the Municipal Act. Various cities pass different types of animal bylaws, exotic animal bylaws and so on to meet the particular needs that have been identified by that community. In many ways we're hoping this will allow us to address the particular need that's been identified in our community.

If, down the road, based on the experience of this bill and based on the wishes of this Legislature, the government decides to include those types of authorities on a broader basis for the entire province, then I think each municipality, through its elected representatives, will have the ability to make bylaws that are appropriate for that municipality and ultimately will answer to the public if they exceed their powers in any way. From a municipal perspective, where the council meetings are generally very open, it is an opportunity for the public to voice their concerns in the most effective way possible, and certainly if things stay the way they are, if no sooner, every three years when the municipal elections occur.

**Mr Shea:** Thank you. You've been helpful in your responses.

**Mr Bisson:** For the committee, just so they understand why I'm going to do what I'm going to do, it's my understanding the bill would allow you to regulate and prohibit certain classes of dogs in your municipality. You already have the right, if there's a problem with a dog, to dispose of that dog, right? If we were to strike subsection 1(3), you'd still have that right?

**Ms Pasternak:** Yes.

**Mr Bisson:** The answer is yes. Okay. That being the case, I would like to move two motions. The first motion would be —

**Ms Pasternak:** We're still looking at a problem after the ban is instituted: If someone insists on having a pit bull that is not a grandfathered pit bull in the city who hasn't had a behavioral problem, we could not proceed under the Dog Owners' Liability Act to have that animal destroyed as a last resort.

**Mr Bisson:** I understand that, but then it would go back to the point the parliamentary assistant made originally, which is a problem, and you're not going to get them to vote for it that way. My suggestion to you is that you just strike subsection 1(3). It will allow you to regulate those dogs, and you'll deal with it according to the other pieces of legislation as well. It's your call. Either you get a bill or you don't get a bill is my view.

**Ms Pasternak:** It partially has to do with it being Kitchener and Waterloo; we have to consult.

**Mr Bisson:** We have to consult with both communities. You may not have to do that after amalgamation. As they're consulting, we already have the rights in our municipalities if there's a problem to dispose of the dog;



seize it, dispose of it, impound it or do whatever. All we're going to do is give them the right to regulate the classes of dogs, which I think is fine. Is there a great debate? I'm about to move a motion.

**Ms Arnold:** The only concern I can see as far as eliminating section 3 in its entirety is perhaps just the confusion in relation to whether the Dog Owners' Liability Act or the proceedings under our bylaw would apply to a pit bull that has attacked someone. The dog owner could come forward and say that you have to now follow the proceedings in the Dog Owners' Liability Act, that you can't just destroy —

**Mr Bisson:** But it would fall under the other act, though. That's the point I'm getting at. If a dog goes out and attacks somebody, you have the right now, and it doesn't matter if it's a pit bull or it's a poodle — I hope it's not a poodle; it would be a pretty mean one — you would have the ability to be able to, first of all, seize that dog if it has attacked and also dispose of that dog. That's the point. You don't lose that if section 3 is taken out. With that in mind, I'm going to move a motion.

I move that subsection 1(3) of the bill be struck out. That would be the first motion, and I have a second one after.

**The Chair:** Just a point for clarification. We're not talking about removing section 3; were talking about removing subsection (3) of section 1.

**Mr Bisson:** Section 1, subsection (3).

**The Chair:** We'll distribute this motion to the committee members.

1140

**Mr Leadston:** Mr Chair, I believe Ms Arnold, the witness, thought Mr Bisson was referring to section 3, but he's referring to subsection 1(3). Am I correct?

**Ms Arnold:** Yes.

**Mr Leadston:** I think Ms Arnold would like an opportunity to comment.

**Ms Arnold:** I must apologize. I thought we were looking at section 3 and not subsection 1(3). Could I have an opportunity to respond to that motion on that basis?

**The Chair:** Go ahead.

**Ms Arnold:** An integral part of this enabling legislation, in order to be proactive and effective, is, quite frankly, the authority to seize, impound and kill these types of dogs. I'll give you an example. A person is walking down the street with a pit bull that poses a danger to the general public; if section 3 is eliminated, we only have the authority to write a ticket, hand it to the owner and say, "Have a nice day, and I hope you make it home without your dog attacking someone." In our minds, that's not proactive legislation; that's not effective enforcement.

We need the power to take proactive steps to take that dog, just like a police officer would take a semiautomatic weapon out of somebody's hands and impound it. The person would be provided with notice, would be provided with an appeal and a hearing for a full opportunity to address whether or not this dog was in fact a pit bull, and only upon a decision being rendered would the dog be destroyed. But with the greatest of respect, it's a very integral part of this proactive bill that we have the power

to seize, impound and, after notice, appeal, hearing and the proper process, pursuant to the Statutory Powers Procedure Act, that the dog be destroyed.

**The Chair:** We have a motion under section 1 that subsection 1(3) of the bill be struck out. All in favour?

**Mr Bisson:** Recorded vote.

**The Chair:** We're asking for a recorded vote.

**Ayes**

Bisson, Hastings, Shea.

**Nays**

Boushy, Leadston, O'Toole, Pettit, Rollins, Smith.

**The Chair:** I declare that motion lost.

**Mr Bisson:** Just to fix a particular part in the bill: If you look in subsection 1(2) it reads: "A bylaw passed under clause (1)(a) may provide that dogs of a regulated class, breed, mixed class or mixed breed must..." and it goes on. It should be added after "regulated," and I'll move a motion, "or prohibited" in order to fix it, because there are other problems, and it would be the quickest way I see to fix it. I would move that subsection 1(2) of the bill be amended by inserting "or prohibited" after the word "regulated" in the second line.

**The Chair:** That motion is being distributed.

**Mr Bisson:** It just clarifies it so that we don't have to go through the bill and make a whole bunch of other changes.

**The Chair:** We have this amendment before the committee. Those in favour of this amendment? Those opposed to this amendment? This amendment is carried.

**Mr Bisson:** Seeing that I've lost the first one, I'm trying to figure out how to get around this. There might be another idea here. I guess I'm back to the same problem. I'm going to try another motion to try to work this out in some way so that we don't get into the pitfall that the parliamentary assistant seems to be falling into. Maybe what we need to do with subsection 1(3) is to clarify that you just can't seize and kill a dog on the basis of it being a pit bull or certain class of dog but that there needs to be some sort of behaviour on the part of the dog that would lead you to want to get rid of the dog.

**Mr Shea:** On a point of order, Mr Chair: I can't read the writing. We're trying to work on something that may assist.

**Mr Bisson:** I just tabled something very quickly.

**Mr Shea:** Can I ask someone who can read his writing better than I can to read the words we're trying to work on here and see if this would help you.

**Mr Tom Melville:** I'm Tom Melville. I'm a solicitor for the Ministry of Municipal Affairs and Housing. This is just a suggestion for discussion; I'm not taking any side on the policy. It would be an addition to section 2, perhaps, a new subsection 2(5) of the bill to the effect that in addition to the requirements under subsection 2(4), and those are the hearing requirements, no action may be taken under subsection 1(3) to seize, impound or kill a dog — those are the severe actions — unless the council has determined, after a hearing, that the dog is dangerous. Is this what you're getting at, putting in the idea of a



behaviour requirement again? It's a policy issue for the committee to decide.

**Mr Bisson:** I think we've got a whole bunch of problems with this.

**The Chair:** Mr Bisson, do you wish to make an amendment?

**Mr Bisson:** I'm going to listen to what the government has to say at this point. It looks like they've got a problem.

**Mr Leadston:** Obviously, I don't support that. It's interesting that my colleague approximately an hour ago was quite prepared to pass the bill in its entirety without any discussion, and it's interesting to note that my good colleague and friend here is the one who seems to be — I hesitate to use the word — nitpicking.

The two municipalities have lived side by side, they've worked and lived very closely together, and they've worked closely on this piece of legislation. With all due respect to the solicitors from all the ministries, they're asking for the tools to do the job within their respective municipalities.

I'm not a lawyer, and with all due respect to lawyers, they are also a governing body within this Legislature and within the municipalities. They help to develop and create the bylaws and the necessary tools for the city staff and the agencies within the municipalities to carry out the functions and wishes of the elected body, the council. They're asking for these very tools. They're not asking for alterations and changes, amendments and heretofores and whereases. This is what they're suggesting they need to do a very difficult job within their municipality.

As part of a team here, I don't think we need to alter any or all of this. Obviously, I'm not supporting the amendment that's proposed by Mr Bisson.

**Mr John O'Toole (Durham East):** I hope you don't take my comments as frivolous, but it would appear to me you're trying to put some teeth in your bylaw in this case here.

**Mr Bisson:** Teeth in your bylaw? What a choice of words.

**Mr O'Toole:** The pun was intended. My point is that the fundamentals of this are pretty clear. You really want to be able to distinguish on the grounds of breed, period. Behaviour is presumed. You've got to recognize what the words are saying. We're either going to deal with it or not, and I'm supportive of dealing with it. We're trying to get around subsection 1(3). The problem I have is some kind of due process, which I presume has happened, because you're dealing with behaviour. That's what the whole thing is about, really: presumed behaviour.

The only real question I have, and I don't know how you can deal with it, is the disposition of the animal. Some municipal bylaws prohibit execution; they must put them up for adoption to other owners. In this case, it would be outside of the city limits of Kitchener. You'd have to give them to Toronto or whoever. Do you understand what I mean?

The public reaction to that one word "kill" is the problem for me. They do exist in the world, I guess for the wrong reasons. We're presuming that they're violent, period. Your comparison to them being a weapon is very

good, but weapons aren't living creatures. Do you understand?

Has it been categorically proven that this breed and its attendant behaviour is categorically threatening for society? We've had one doctor here. I don't take any single opinion. I don't care what you call your education, there are always several arguments. I bet I could get a veterinarian who'd absolutely corrupt his opinion and be from the same veterinary college. I'm sure you've wrestled with this longer than I have, and I agree with you, but I'm not qualified to say that that class of animal is, in all cases, in all situations, predisposed to be violent.

**1150**

**Mr Hastings:** Is it assumed in here that the cost for inserting the microchip would be the dog owner's responsibility? Is that implied?

**Ms Arnold:** That's correct. I believe the cost is approximately — where's Dr Hess? — \$25 or \$50.

**Dr Hess:** It depends on where you get it done. It's \$15 through the humane society and about \$45 through the veterinarians, but the veterinarians don't get the chips at the same rate, so I don't want to say they're charging too much.

**Mr Hastings:** Ms Arnold, is it assumed that the cost of the hearings would be the responsibility of the applicant or is the municipality to cover the cost? In my estimation, if you want to place responsibility on people, the cost of the hearing ought to be attributed back to the hearing proponent. It's not specified in here.

**Ms Arnold:** I don't anticipate that the cost of the hearing would be charged to the person seeking an appeal of the finding that his dog is a pit bull.

**Mr Hastings:** That's my point, that it ought to be.

**Ms Arnold:** I suppose there is the authority in the legislation that council, after consultation with the public, if they saw fit in their bylaw, they could make cost provisions.

**Mr Hastings:** I hope you'd go in that direction.

I would like to propose, Mr Chairman, that there be a time frame placed on this bill and that section 4 of the bill read "for two years only as of the date the bill receives royal assent."

**Mr Bisson:** You would sunset the bill?

**Mr Hastings:** Yes. Or "as amendments are made to the Municipal Act or the Dog Owners' Liability Act" that would get this stuff incorporated probably into the Municipal Act whenever that would come due, however you want to make the wording to that effect. So the first amendment —

**The Chair:** Are you proposing a motion?

**Mr Hastings:** I'm moving a motion that section 4 of the bill be amended so that it says "for two years only upon the date of royal assent." That would be the one amendment: for two years only. For example, if this bill took effect, assuming the House leader reported it as of, say, January 30, 1997, it would have effect for two years, to January 1999. That looks after the sunseting. I have some concerns about the whole thing, but I'd still want to support Mr Leadston. The other suggestion is that we look at whenever the Municipal Act would be amended to incorporate the intended changes looked at and proposed by the cities of Kitchener and Waterloo in this bill.



So it's either "or" or "and." It's incumbent upon municipal affairs then to make sure that when they make the changes to the Municipal Act, this thing does get included and does get recognized.

**The Chair:** Is that the end of your motion?

**Mr Hastings:** Yes.

**The Chair:** To follow procedure, we are going to have to write up this motion and distribute it to the committee members. We'll recess for two minutes.

*The committee recessed from 1156 to 1204.*

**Mr Leadston:** With respect to the proposed motion, I think it's imperative that at least perhaps Mrs Arnold, the city solicitor for the city of Kitchener, have an opportunity to respond in terms of how that will impact the many months of work and effort that have gone into the preparation of this. I'd appreciate an opportunity for Mrs Arnold at least to respond and clarify any issues that may still be of concern.

**The Chair:** We have copies of this motion before us. Do any committee members need clarification from the applicants on this?

**Mr Shea:** It's pretty clear.

**The Chair:** Is it clear to everyone? Mr Leadston, it may not be necessary. This motion is in the hands of the committee members now.

**Mr Hastings:** I appreciate the work that all the staff from both cities have done. Our primary concern is that I want to recognize that work and give them some additional tools, but at the same time, we have a responsibility to ensure that the red tape dimension of this thing doesn't get out of control. I'm also trying to balance out what municipal affairs and Sol Gen might do in the next couple of years — sooner, hopefully, but around here you learn quickly that there are no time lines. That's why I'm proposing that this thing be repealed in two years, although it doesn't say that — actually, it does say that: "on the second anniversary of the day this bill receives royal assent."

It also signals to the other municipalities that we don't want the checkerboard features, that we recognize special problems but we also know that if other municipalities are going to approach this government for this kind of assistance, it will still have the two-year time frame in it, sunseting it. That's what we're trying to do with other legislation around here, but it hasn't happened very often. Those are the major reasons for this proposal.

**Mr Leadston:** Obviously, I'm not prepared to support the motion. I think the municipalities — and indeed it has been expressed here — have put a great deal of time and effort into the preparation and they want the legislation to deal with an issue in their community. They don't want to have to come back in two years' time and start from scratch. They're saying that this is what they require; allow it to be an opportunity to develop a legislation process. It could be included province-wide. It has been over a year since this process has started.

**The Chair:** Any further discussion on this motion? All in favour? Those opposed? I declare the motion lost.

**Mr Smith:** During the course of the conversation this morning I heard concerns raised by the parliamentary assistant, the assistant deputy minister and in part my colleague Mr Hastings with respect to the possible

implications that section 3 would suggest in terms of this act prevailing over others. I haven't heard any clarification to the contrary, so having said that, it would be my viewpoint that I wouldn't be able to support section 3 as it's included in this bill from that perspective, and in that regard, I move that section 3 be deleted in its entirety.

**The Chair:** I'll ask Mr Prins, our clerk, to comment on that. I'm not sure if you can declare a section —

**Clerk of the Committee:** Procedurally you can't move that a section be struck out. The procedure would be just to vote against it. If you don't want that section to carry, don't vote for it.

**Mr Smith:** Okay. Then what I will do is reaffirm my concerns, the concerns I've heard from the parliamentary assistant and others this morning, about the inclusion of that section in the bill, and I will not be supporting it.

The other item that I did have is a matter of clarification. I understand the applicants are aware of this. It's a motion that applies to subsection 2(4). It reads as follows:

I move that subsection 2(4) of the bill be amended by inserting "and" after "given" in the third line.

**The Chair:** Discussion on this motion?

**Mr Leadston:** No, I would say call the question. This is with respect to the inclusion of "and"?

**The Chair:** Yes.

**Mr Leadston:** I think it was indicated earlier that I was in agreement. The witnesses were in agreement to the inclusion of "and" after "given."

**The Chair:** Any further discussion on this motion?

All in favour of this motion? I declare this unanimous.

**1210**

Next question: Are the members ready to vote? Mr O'Toole?

**Mr O'Toole:** Yes, I just want to be on the record very clearly. I know I've said this before. I just want to make sure I'm not misunderstood. My most serious difficulty is with subsection 1(3), as I've stated before; more specifically, the action of being killed. I realize section 4 deals with that. Subsection 2(4) that we've just amended requires there be some process before the animal was destroyed. This may be a question to the parliamentary assistant. He has implied that the Municipal Act and other acts are being reviewed, that would deal with this situation. That was why I would be supporting the bill, hoping that the appropriate ministry would be dealing with this class of animal issue.

Putting it on the record is to say that I recognize the dilemma. I'm not convinced there's categorical proof that a class of animal can be deemed as "should be destroyed," and therefore, should not exist. That's pretty profound, very profound. I'm not convinced that I've had sufficient balanced evidence to conclude that that's the right decision.

That may sound ambiguous to you, but do you understand what my point is? You've been through a process, however prolonged that was, to determine that a certain class of animals should be destroyed, everywhere in the world really. I need to think that we should ensure that the ministry in their review is dealing with it from that point of view, whichever minister. If that's a question, could you respond to me, whether it's the PA or the deputy or whoever?



**Dr Young:** Normally, in reviewing the animal welfare, certainly this being an issue that is current, it would be part of the review. A ministry would look at a situation like this, try to gain as much information as possible and ultimately would put forward in the form of the bill the government's position on this issue. So yes, something like would be part of a study that is included as part of animal welfare.

**Mr O'Toole:** If I support this bill, if we as the government support this bill, does it now, from this date when it gets royal assent, give them power to just go around, collect up all this particular class of animals and destroy them?

**Ms Arnold:** Municipalities already have the right under the Municipal Act as it's currently drafted to "seize, impound and kill" — those are the words — any dog found running at large, and that does go on. Any dog that is on private property we cannot go on and seize pursuant to this bill or a bylaw passed thereunder. We would have to comply with the Provincial Offences Act provisions for obtaining a search warrant from a justice in compliance with the Charter of Rights and Freedoms' rights against unreasonable search and seizure.

If somebody were walking a pit bull down the street and an officer came upon that situation, yes, under this present wording the officer would have the authority to seize that dog from the owner and provide the owner with an opportunity to have a hearing, an appeal process, to challenge whether the dog fell into that category of a prohibited type of dog. That, I suppose, is the step beyond the current powers that we have under the Municipal Act to seize, impound and kill dogs found running at large.

This type of legislation has been in force for six to eight years in Edmonton, Winnipeg and Lachine, Quebec, and by all accounts has worked well. Certainly, if there is great public opposition to pit bulls being prohibited, then democratically it may prevail that for that type of dog we don't pass this type of bylaw. It hasn't been the experience of our councils or staff that there is widespread support to allow pit bulls in our municipalities. It is a quintessentially local issue that each municipality is grappling with. Other municipalities ban other types of animals. This is an issue of great concern for our municipalities, and that's why we're here today.

**Mr O'Toole:** I guess I'll be supporting it only because I want the ministry to be committed to a complete review. This is my last question. At the end of the day when that review that you've suggested will go forward is complete, it would override any bylaws that had been constitutionally executed?

**Dr Young:** Generally when legislation is brought forward, because it's the most recent, it overrides other legislation. Certainly, if our legislation was addressing this in either the same way or in a different way, I presume that we would override the existing legislation. That's correct.

**Mr Shea:** Could I just add to that as well for Mr O'Toole, to pick on Mr Smith's point, that if we indeed drop section 3, that also gives further weight to that taking effect.

**Mr O'Toole:** That was the point I was going to make, and I appreciate that.

**Mr Dave Boushy (Sarnia):** I think we all have some kind of reservation about this bill, but we are very sympathetic to the request. This act is not saying to the province and the municipality to go out and kill the animal. It just allows the municipality to come up with a bylaw that suits their own people. They might decide eventually not to go ahead with this bylaw, but we are allowing them to go ahead with a bylaw. They're elected people, like you and I, and they will answer to the people. They will advertise the bylaw, they'll have public hearings, and our government does encourage local municipalities to conduct their own business. That's what it's all about.

As far as the animal, I'm not concerned about a dog being killed if it means saving a human being. Why should we protect a dog on the street that may kill someone? A dog is a dog is a dog, as far as I'm concerned. A human being is a human being, and I'm willing to support this. It's about time. I think we have discussed this for two or three hours. Let's vote on it and get on with something else.

**Mr Shea:** I have spoken and I've given the position of the government. I have done that, and that's set aside. The comments I want to make now are personal comments and they reflect my position as a member of the Legislature.

I think a class in ethics would have an intriguing time wrestling with this one, indeed listening not only to the arguments from the council for the municipality but also to some of the comments that were made here around the chamber. I have a concern. If one presents graphic evidence to support the request that the municipality brings forward — and I respect that. I've had to live with that in my own political life. Let there be no doubt about that. But by the same token, there is a balance in a civil society and I take a look at this. It's not just a matter of a dog is a dog and so that's just off to one side, while a human is something else and off to another side. This issue is somewhat broader than that, I would put to you.

I'm not particularly impressed with the fact that a municipality has wrestled with this for a year and therefore has a right to say: "This is what we want. Just give it to us. That's the end of the story." This Legislature is bound and under solemn obligation to wrestle with the ethics of any issue that's being put before it, and this is one that has some concern to me. You could use a graphic response to this every bit as much as the visual evidence put to us, which was tragic in its own right, and say, "You exist, therefore you must die." The fact is that what is being asked for is an identification of a breed, and because you have been born in that breed you are now to be disposed of.

The question raised just a moment by Mr O'Toole puts it right on the money: to suggest that you walk down the street now with a dog under leash, no one can take that away from you without process. Everything is to be judged by behaviour at that moment. Behaviour is where the law is positive.

You suddenly are wrestling with the issue that it is no longer behaviour, it is now breed, and there is empirical

evidence, there is anecdotal evidence that has been put before us today to say the breed, because of a number of experiences, obviously is dangerous and must be separated from the community. One member or more of this committee has pointed out to us that there could be other anecdotal evidence put before us by other specialists to counter that. It's because of that that I have some concern. It is a concern unless there are safeguards for process not only for the community but also for the animal itself. Unless there is some response to that, I have some concerns about how that's applied.

1220

I will support the bill in large measure, with certain exceptions. I do not want to see section 3 remain and I will vote for its being removed from this. I would prefer to see 1(3) removed as well, but we've been losing that battle today as it goes through it, so at least I caution us with this. It is not a simple matter and this is not just a matter of regulatory change. There is a fundamental shift being proposed today, and regardless of what other jurisdictions have done, they will have to answer for their actions. I personally have to answer for mine as well. That's a personal statement. I make it very clear I am not making those statements on behalf of any ministry or the government, but those are my own views as a member of this Legislative Assembly.

**Mr Hastings:** I want to make some comments. I have struggled to manoeuvre with this bill so that the folks from both cities would end up with a tool that could help them. I cannot support this bill in the way it is written, even with the amendments. I've been trying to be accommodating, but I have to say to Mr Leadston that when we give this particular set of powers to this set of municipalities and blithely make statements that it's working in Lachine, Quebec, etc, I don't think we've really wrestled with the ethics.

On the other hand, we have Dr Hess saying that it's okay to kill these creatures because that's the way it is

under the legislation. That's another side issue, but a big ethic as well. We should be looking at how animals can assist us in terms of saving human beings. I know that's a very controversial issue because I've seen both sides of it as well.

On the whole, I think my major concern is that we are giving so much delegated power to people today to allow them to go out on the basis of behaviour and breed, to make decisions. And don't get it in your heads that I'm suddenly in support of pit bull dogs. We've had this issue, as M. Bisson said, before us in other ways.

This is a hard issue for me to deal with. Because there is no limit on the discretionary power, there is no time frame because we don't want this municipality coming back, the same argument can be made for the next municipality that comes and asks for this legislation if it isn't made a top priority of the Municipal Act revisions and reform.

**The Chair:** I will ask the question again. Are members of this committee ready to vote on Bill Pr71?

Shall section 1 carry, as amended? Carried.

Shall section 2 carry, as amended? Carried.

Shall section 3 carry? All those in favour of section 3? Those opposed to section 3? Defeated.

Shall section 4 carry? Carried.

Shall section 5 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Now I'll ask for a vote on whether the bill will carry. All those in favour of the bill, as amended? Opposed? Carried.

Shall I report the bill to the House? Carried.

I wish to thank the applicants and all parties involved and I now declare this order of business closed.

The committee adjourned at 1226.



## CONTENTS

Wednesday 27 November 1996

**Cities of Kitchener and Waterloo Act, 1996, Bill Pr71, Mr Leadston** ..... T-151

Mr Gary L. Leadston  
Mr Bill White  
Mr Berry Vrbanovic  
Dr Gerhard Hess  
Mr Jake Smola  
Mr Randy Peacock  
Ms Debra Arnold  
Ms Lisa Pasternak

### STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

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**Vice-Chair / Vice-Président:** Mr Bruce Smith (Middlesex PC)

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\*Mr Gilles Bisson (Cochrane South / -Sud ND)  
\*Mr Dave Boushy (Sarnia PC)  
\*Mr John Hastings (Etobicoke-Rexdale PC)  
Mr Tony Martin (Sault Ste Marie ND)  
\*Mr John R. O'Toole (Durham East / -Est PC)  
\*Mr Trevor Pettit (Hamilton Mountain PC)  
Mrs Sandra Papatello (Windsor-Sandwich L)  
\*Mr E. J. Douglas Rollins (Quinte PC)  
\*Mr Tony Ruprecht (Parkdale L)  
Mr Mario Sergio (Yorkview L)  
\*Mr Derwyn Shea (High Park-Swansea PC); parliamentary assistant  
to the Minister of Municipal Affairs and Housing  
Mr Frank Sheehan (Lincoln PC)  
\*Mr Bruce Smith (Middlesex PC)

*\*In attendance / présents*

#### **Substitutions present / Membres remplaçants présents:**

Mr Jim Flaherty (Durham Centre / -Centre PC) for Mr Pettit  
Mr Bernard Grandmaître (Ottawa East / -Est L) for Mr Sergio  
Mr Gary L. Leadston (Kitchener-Wilmot PC) for Mr Sheehan

#### **Also taking part / Autres participants et participantes:**

Dr James Young, assistant deputy minister, public safety division,  
Ministry of the Solicitor General and Correctional Services  
Mr Tom Melville, solicitor, legal branch, Minister of Municipal Affairs and Housing

**Clerk / Greffier:** Mr Tom Prins

**Staff / Personnel:** Ms Susan Klein, legislative counsel



T-16

T-16

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## Legislative Assembly of Ontario

First Session, 36th Parliament

## Assemblée législative de l'Ontario

Première session, 36<sup>e</sup> législature

# Official Report of Debates (Hansard)

Wednesday 4 December 1996

# Journal des débats (Hansard)

Mercredi 4 décembre 1996

**Standing committee on  
regulations and private bills**

**Comité permanent des  
règlements et des projets  
de loi privés**



Chair: Toby Barrett  
Clerk: Tom Prins

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LEGISLATIVE ASSEMBLY OF ONTARIO

**STANDING COMMITTEE ON  
REGULATIONS AND PRIVATE BILLS**

Wednesday 4 December 1996

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**COMITÉ PERMANENT DES RÈGLEMENTS  
ET DES PROJETS DE LOI PRIVÉS**

Mercredi 4 décembre 1996

*The committee met at 1005 in committee room 1.*

**The Chair (Mr Toby Barrett):** Good morning all, and welcome to this regular meeting of the standing committee on regulations and private bills. We have two orders of business on the agenda today, Bill Pr35 and Bill Pr40.

I might mention with respect to Bill Pr40 that we have a number of interested parties registered to address this bill. If there are any additional groups who wish to speak to this bill, I would ask that you have a word with Mr Decker if you're not registered to speak on what is the second item of our agenda this morning.

**OTTAWA CIVIC HOSPITAL ACT, 1996**

Consideration of Bill Pr35, An Act respecting the Ottawa Civic Hospital.

**The Chair:** Our first order of business is Bill Pr35. The sponsor is Richard Patten, MPP. Mr Patten, I would ask you to say a few words of introduction and then introduce the applicants for this bill.

**Mr Richard Patten (Ottawa Centre):** Thank you very much, Mr Chair. I'm glad you explained the throngs of people here today. I thought they were here to listen to our bill, but I see it's for the second one.

I am here as a sponsor of the bill, An Act respecting the Ottawa Civic Hospital, which is a hospital in my riding, and I have with me the chair of the board of trustees, Mr Sol Shinder, who will introduce and make some comments on the bill; and also legal counsel for the hospital, Mr David Hill, from Perley-Robertson, Panet, Hill and McDougall. I will just pass this over for Mr Shinder to make comments. There is an amendment that should be circulated, and Mr Shinder will speak to that as well.

**Mr Sol Shinder:** Mr Chair, members of the committee, as you are aware, this is a bill relating to the governance of the Ottawa Civic Hospital. Essentially, it is a change in the appointment structure for members of the board of trustees. Historically, the Ottawa Civic Hospital's board of trustees has been appointed by Ottawa city council under the City of Ottawa Act. The city of Ottawa in effect is the owner of the hospital. It is a bit of an anachronism in that for the last 30 years or so the city of Ottawa has not contributed anything to the hospital as such; the operating funds all come from the Ministry of Health and other patient care initiatives on the part of the hospital.

Essentially, it is a change to make the appointment process a little more transparent, take it out of the political arena and have the hospital governed, like most of the hospitals in Ontario, through the Public Hospitals Act. The appointment process will still be one that will

respect the community the hospital serves but will be a little easier on the hospital in getting the kinds of skills that are necessary on a board of trustees in these difficult times for hospitals.

Mr Hill and I are prepared to answer any questions you may have relating to it. This is a process that has gone through the Ottawa city council, and they've approved it. It's taken some time to negotiate it, four or five years since we started the process. Hopefully, we're getting there before the hospital scene is changed next year with restructuring. In anticipation of that question, I might as well deal with it.

It is our view that we will be better able to deal with the restructuring decisions as a body that's independent of the local municipal political scene; we'll be on the same footing as everybody else in the Ottawa area.

I might just add that the city of Ottawa has approved this and its council has indicated that it is in favour of the amendments as well, some housekeeping amendments.

We're prepared to answer any questions.

**The Chair:** Before we go to questions from the committee, are there any interested parties in the room who wish to speak to this? Seeing none, I would now ask the parliamentary assistant of municipal affairs, Derwyn Shea, for any comments on behalf of the government.

**Mr Derwyn Shea (High Park-Swansea):** I appreciate Mr Patten bringing this one forward. As he and other members of this committee will know, it's a very straightforward request that's being made. It's quite common. It's following a very normal path. A number have been brought forward in the last few years. Mr Shinder points out quite rightly that this now allows a separation between hospital operations and municipal operations, which is in keeping with the changes of the government operations since at least 1982 when funding for hospitals became a responsibility of the Ministry of Health.

In addition to being able to separate out the appointments to the board, the other part that Mr Shinder did not refer to but which is equally important to the municipality is that it frees the municipality from the burden of liability for debt and other financial affairs of the hospital. One understands why Ottawa council would be quite pleased to approve, as other councils have as well.

There are no objections — a very straightforward application.

**The Chair:** The first question is to Mr Boushy.

**Mr Dave Boushy (Sarnia):** I have no problem with it except that it seems odd, to me anyway, at this stage, that it's premature, because any decision by the restructuring commission overrides any decision we make here.



**Mr Shinder:** Ultimately, the restructuring commission is going to make its decision on how the hospital scene will be reconfigured in Ontario, in Ottawa in particular. This process was started well before the commission came into being. However, we still feel it's appropriate that this proceed and that in the fullness of time, whatever the commission may decide, the hospital will be better able to deal with it through this structure than through the prior structure. We will avoid any political interference — not that there was any; rather, the possibility of any political interference in the ultimate decision, whatever it may be.

The restructuring commission will make some general recommendations relating to what should or shouldn't take place. We expressed our opinion to the commission as to what we believe is appropriate — a merger is one of them — but the details of that will be left to the boards of the hospitals to negotiate, and we believe this structure will allow that process to proceed on a smoother plane.

**Mr Boushy:** Just for my own information, when do you expect the commission to hand down its decision?

**Mr Shinder:** It would probably be January or February.

**The Chair:** Are there any further questions to the applicants or to the parliamentary assistant? Seeing no additional questions, are the members of this committee ready to vote?

**Mr Shea:** Mr Chairman, on a point of order, did we hear that there were amendments?

**Mr Bruce Smith (Middlesex):** I have two motions to put forward, Mr Chairman. I'm at your direction at which point to proceed with those.

**The Chair:** Let's carry through section by section. If you have a motion or amendment at a certain point, we'll make it at that point.

Are there any amendments with respect to the first 10 sections of this bill?

**Mr Smith:** I move that the bill be amended by adding the following section:

"Application of the City of Ottawa Act, 1988

"10.1 Section 1 of the City of Ottawa Act, 1988, does not apply to the hospital."

**The Chair:** We are voting on Bill Pr35, An Act respecting the Ottawa Civic Hospital, sponsored by Mr Patten. We will vote on sections 1 to 9 first and then we'll vote on section 10 as amended. In keeping with the procedure, we will collapse sections 1 through to 9.

Shall sections 1 through 9 carry? Carried.

Shall section 10 — we'll just take a minute while the motion is being distributed.

**Mr Smith:** I'm not sure if I did that appropriately. I want to make sure that this is a new section being added and not an amendment to section 10, if I understand that correctly through the clerk. I've confused the committee in that regard.

**Mr Trevor Pettit (Hamilton Mountain):** Which is easy to do.

**Mr Smith:** Which is easy to do, apparently, on occasion.

**The Chair:** I'll read the motion. It refers to section 10.1: "Section 1 of the City of Ottawa Act, 1988, does not apply to the hospital."

**Mr Patten:** That's adding that to the section. It's not replacing it.

**Mr Frank Sheehan (Lincoln):** I don't understand what you're doing. The City of Ottawa Act is referred to in section 11; I don't understand the implications of that. Section 10(1) deals with the Ottawa Civic Hospital Foundation. Is that a corporation? I don't understand this whole thing.

**Mr David Hill:** Perhaps I can be of assistance to the committee. Section 10, as printed in the original bill, is intended to stay. Section 10.1 is a new section, which I understand the motion covers. Subsection 10(1) starts on page 3 of the original printed bill, and going right over to where section 11 starts on page 4, that section is intended to remain. The motion, as I understand it, is that a new section labelled 10.1 is a new section, an additional section. The 10 that is printed remains and there is a new section added, and the new section indicates that a section of the City of Ottawa Act of 1988 does not apply to the hospital; "hospital" is defined in the act as the Ottawa Civic Hospital.

**Mr Sheehan:** How is that affected by subsection 11(1)?

**Mr Hill:** There will be an amendment to section 11 to follow, if I understand correctly.

**Mr Sheehan:** Can you explain it all in context, Mr Chairman?

**The Chair:** Should we ask for that amendment now, as well?

**Clerk of the Committee (Mr Tom Prins):** Yes, I can hand that amendment out now, if that will help, and we'll vote on that after.

**Mr Pettit:** Just in terms of the numbering here, should this not then be subsection 10(3)? Is it not added after 10(2)? We already have a 10(1).

1020

**The Chair:** This is labelled 10.1.

**Mr Pettit:** All right.

**The Chair:** Any other questions on this procedure? Do you have a comment on that?

**Mr Shea:** It's very simple, what's being suggested. We're simply saying that section 10 continues as printed. The applicant is requesting that 10 be amended by adding 10.1. That's quite normal. It makes it very clear that the separation occurs with the government of the city of Ottawa. That's very clear and that's established.

Section 11 may still continue but it's not contradictory, only because it still allows the municipality the right to do whatever it wants to do with regard to hospitals, this one notwithstanding. It's within its purview if it wishes to assist or not, but they are separated out, and the liabilities that would normally occur under the current legislation for the Ottawa council are separated out. It's a very simple amendment, I think.

**Mr Sheehan:** No one's questioning that it's probably simple. Probably we're simple, too. This is where the thing cuts, I guess, where you actually extricate the city of Ottawa from the act that governs the hospital. Is that it?

**Mr Shea:** I think 10.1 in fact makes it very clear that they are not part of it, but 11 still allows the municipality, if it wishes to have some kind of continuing relation-



ship with the hospital, with the hospital's approval and so forth, it may continue to do so. It wouldn't worry anybody if it were or were not there, but the fact is, this is the way the applicant would like it left, and I respect Mr Patten's judgement in sponsoring a bill of this sort. In my opinion, it's a very simple amendment.

**Mr Hill:** If I can add, there is another hospital in Ottawa, the Riverside Hospital, that is remaining governed by the Ottawa city council. That's why they wanted this specified that it's the Civic Hospital that's being removed and not the Riverside Hospital.

**The Chair:** Any other questions to clarify this particular motion? This is a motion before us with respect to section 10.1, which reads:

"10.1 Section 1 of the City of Ottawa Act, 1988, does not apply to the hospital."

Does this motion carry? Carried.

Now we will go back up to section 10 itself. Shall section 10 carry? Carried.

Now we will jump down to section 11. I'm sorry, further explanation? We have now voted and passed a motion with respect to 10.1. The next question is, does 10.1 carry? Carried.

Following procedure, we will collapse the remaining sections 11, 12 and 13, and on the next page, 14.

**Mr Smith:** I have a further motion — actually it's a follow-up to Mr Sheehan's comments — and it reads as follows:

I move that subsection 11(1) of the bill be struck out.

**Mr Shea:** Is that 11(1) or 11.1?

**Mr Smith:** On page 4, the way it's printed, 11(1).

**Mr Gilles Bisson (Cochrane South):** You're repealing all of section 11?

**Mr Shea:** It just cleans it up.

**The Chair:** This motion has been distributed. Are we ready to vote on that motion?

**Mr Bisson:** I apologize. I came in late. I was dealing with something else. We've already dealt with page 3, subsection (11)? That's already been dealt with?

**The Chair:** Section 11? No, we have not voted on 11 yet.

**Mr Bisson:** No, no. I've got to back up here. The bottom of page 3, subsection (11). "Appointment to board" is the explanatory note beside it. Hang on a second.

**Mr Shea:** Which bill are you on, Mr Bisson?

**Mr Bisson:** Ottawa Civic Hospital.

**Mr John O'Toole (Durham East):** That's section 6.

**Mr Pettit:** That's already passed.

**Mr Bisson:** All right. Too late. Thank you.

**Mr Shea:** The amendment that's put before us now is to clean up the point that Mr Sheehan and I were addressing earlier. It just cleans it up and makes it very clear. With the amendment we've now put forward for 10, this just removes that other section.

**The Chair:** We are voting on subsection 11(1) of the bill. It reads, "I move that subsection 11(1) of the bill be struck out."

Shall this motion carry? Carried.

Section 11 has been amended. The motion has passed. Shall section 11 carry? Carried.

Shall sections 12, 13 and 14 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

I wish to thank the applicants and the sponsor.

**Mr Patten:** Thank you, Mr Chair. I appreciate that. That was a tough one.

**Mr Shinder:** When would you anticipate it coming before the House for second and third reading?

**The Chair:** I'll report it in the House today.

**Mr Bisson:** Typically, we'd be passing it the last day of the fall session — typically.

**The Chair:** It's not in this committee's hands. I declare this order of business closed.

1030

#### ASSOCIATION OF ARCHITECTURAL TECHNOLOGISTS OF ONTARIO ACT, 1996

Consideration of Bill Pr40, An Act respecting the Association of Architectural Technologists of Ontario.

**The Chair:** Our next order of business is Bill Pr40. The sponsor is MPP John Hastings. I would ask MPP Hastings and the applicants to approach the witness table.

I'll draw your attention to this agenda. There is also a listing on the back of this page. I might make special note that Robert Mitchell, former MPP for Carleton, is with us as well. Mr Mitchell, welcome back to Queen's Park.

**Mr Tony Ruprecht (Parkdale):** Which side is he on?

**Mr Shea:** On the side of the angels.

**Mr E.J. Douglas Rollins (Quinte):** If you have to ask, you don't know.

**The Chair:** Mr Hastings, I would ask if you could make some brief introductory remarks and also introduce the applicants.

**Mr John Hastings (Etobicoke-Rexdale):** Thank you, Mr Chairman, for having us here today for Bill Pr40 regarding the Association of Architectural Technologists of Ontario. I'd like to introduce Mr David Hornblow who is the president of the association, Mr Peter Adams who is executive director of the association and Ms Virginia MacLean who is counsel to the association from Cassels Brock.

**Mr Hastings:** Cassels Brock.

The purpose of our meeting here today is to deal with Bill Pr40, which is to establish the Association of Architectural Technologists on the same playing field as other related associations that have grown up over the last 10 years. There are specific amendments the applicants will deal with in all their dimensions. So I'll let them proceed to make their presentation to the committee dealing with this bill.

**Miss Virginia MacLean:** As Mr Hastings has indicated, this is to put this association, which has been in existence since 1962 as an unincorporated association and since 1969 as a corporation without share capital, on an equal footing with similar associations: for example, the Ontario Association of Landscape Architects has been a private bill, the Ontario Association of Landscape Architects Act; the Association of Registered Interior Designers of Ontario Act; the Ontario Building Officials Association



Act; and the Ontario Association of Veterinary Technicians Act, to name a few. In 1984, you had the Ontario Association of Certified Engineering Technicians and Technologists Act. These are similar groups that have, through private legislation, received statutory recognition of their specialty.

Not only do the provisions of the bill relate to the governance and discipline of members but they also deal with the granting of the right to use a special title. In this case, the special title that is being sought to be recognized is that of "architectural technologist," "architectural technician," "registered building technologist" and "registered building technician."

I raise that issue at this point in time because there is a bit of history to this bill. We did in fact go before a committee. In June of this year, we went before the standing committee on the Legislative Assembly for the purpose of dealing with whether or not section 9 was in conflict with the Ontario Association of Architects Act, which is a piece of general legislation.

As a result of the ruling by that committee, section 9 was amended and there's a subsection 9(3) that has been inserted to meet the demands and the ruling of that committee. That section has been accepted by the applicants and they are happy with that section, and that is the section that is before you today. That just deals with the historical situation in which this group finds itself. It is using the terms "architectural technologist" and "architectural technician," and that has been recognized under a piece of general legislation. They have been using that term since 1962, so they are a very unique group in terms of the title they are using.

Those are the highlights and the important issues on the bill. It's our understanding that there may be concerns with respect to section 9, and that's why we bring that to your attention at this time.

I will pass it on now to Mr Hornblow to tell you a little more about the association.

**Mr David Hornblow:** Thank you, committee members, for having us come here today to present to you our bill. The association has existed since 1962. The association is built up of students, interns and technologists alike. I've been an active member of the organization since I was a student at Fanshawe College. I was active as a local member in the chapters, and I was an active member on council.

This association is a very progressive and a very proactive organization in that I was the very first student liaison chairperson for the organization, which allowed for students to have representation across the province on our council. They currently have a voting right on our council, so they have a say in how the future looks for architectural technology and building technology in the industry.

In regard to that, I mentioned that our organization has representation right across the province. Currently we have eight chapters across the province in various locations, such as London, Toronto, east greater Toronto, we have chapters in Sudbury, Kingston, Belleville and a variety of locations across the province, from north to south to east to west.

Our membership are sought out throughout the world. Just this summer, a company from the Bahamas came to

Ontario looking for architectural technologists. We have membership that is spread throughout the world. We have membership that's been recognized as architects both within the Bahamas and Jamaica, to name a few.

We are, like I said, a very proactive organization. We have implemented certain things that other organizations are just now implementing. We have our own stamp. To hold that stamp, you must have liability insurance. We've also implemented a certified professional development program, which ensures that our current members who are technologists maintain their status and represent themselves and the public and the clientele they represent to the fullest and that they have the most up-to-date tools.

We're involved in all 12 community colleges at a variety of levels. Our membership are teachers and building officials. Our membership work for the ministries, both federally and provincially. Our membership is spread throughout this province. In the 12 colleges we have representation both at the student level and as teachers as well. We also have the students represented, having their own voice. We also have the membership themselves, on their own boards or councils, give input on what the students are going to be taught today and what the students are going to be taught tomorrow.

Our organization has been involved with Ontario building code regulations and will continue to be heavily involved in that. Our industry is not limited just to a few but it recognizes all. Our organization has gone to great lengths to make sure that we recognize all bodies and all persons. We're not an exclusive club by any means. We're a grass-roots organization.

In a nutshell, I hope and my membership that sits behind me, which is just the tip of the iceberg, hopes that you will see fit to pass this regulation as it is written today because we have gone to great lengths in consultation with the government to ensure that the public's wellbeing is looked after and that the membership as a whole is looked after.

I'd like to turn it over to Peter Adams, my executive director.

1040

**Mr Peter Adams:** Good morning, gentlemen and ladies. I'd like to thank all of the members present for taking the time to hear us today. What we're asking for today is very important to us.

I realize that in looking at this, it's hard to gain an appreciation in the space of an hour for what we do, but we're out there in your communities. We're your constituents. We're also the people in your communities who are — not myself; I'm the executive director, but our membership in the greater province are in positions in municipalities, approving building code changes, working for municipalities in various occupations, making sure that the province progresses, in essence that the changes that need to be made to our physical structures happen.

I would like to draw your attention to the folders that we handed out to everyone today. Those are letters of support from across the province from different individuals, satisfied customers, individuals who are attesting to the fact that the work that our architectural technologists and technicians do is competent and valued.



I'd also like to draw your attention to the fact of the great volume of people who came today. These people took the time off from their positions to come today to show you physically that it matters to them, that this is important. When they return home today, they have to tell their families what was accomplished and what happened as far as their livelihoods were concerned.

Not to overdramatize the point, we felt it was important that as many members who could take the time off — and they're from across the province, from London, from Belleville, from Ottawa — be here today to show you physically that it's very important to them that this proceed.

I won't take up any more of your time. I appreciate the opportunity to speak, and I certainly hope that if there are any questions at all that we can answer, we can get to those.

**The Chair:** Thank you, Mr Adams. I wish to thank the applicants. At this time if you would vacate the witness table, we have interested parties who wish to speak to this. I would ask all interested parties as well to keep your comments as brief as possible, given the number of people who may wish to speak.

I call forward first Mr Anthony Griffiths, president of the Ontario Association of Architects, for some brief comments.

**Mr Anthony Griffiths:** My name is Tony Griffiths. I am the president of the Ontario Association of Architects. I'm very happy to be here before you today.

May I introduce Mr Brian Watkinson, who is the executive director of the Ontario Association of Architects, and Mr John Brunner, of Brunner and Lundy, Barristers and Solicitors, who are our legal counsel. I will take about five minutes, no more.

We have submitted a detailed brief stating our concerns in some detail. Mr Prins, I think, has those in front of him. Perhaps he will distribute them to you. I would urge you to read them if you can spare the time.

Established over 100 years ago, in 1889, the Ontario Association of Architects is the licensing and regulatory body for the architectural profession in Ontario. All 2,500 architects in Ontario are licensed by the OAA.

Ontario's Architects Act gives us the responsibility to regulate the practice of architecture in order that the public interest may be served and protected. It is because of that statutory responsibility that we feel we must oppose this bill. It is controversial; it impacts on the public interest; it has not received sufficient consultation and ministerial input to proceed.

I would like to highlight some of our key concerns. Our concerns are as follows; there are five major ones. Others are in the more detailed brief.

(1) The Ontario Association of Architects takes the position, supported by opinion of legal counsel, that the proposed private bill is in direct conflict with the Architects Act. It has the effect of amending public legislation and cannot proceed unless section 9, giving exclusive use of the listed titles, is deleted.

(2) It must be understood that the AATO is pursuing this legislative solution in order to bypass the Attorney General's process for dealing with this issue. In that context, there is significant public interest related to this private bill.

(3) It is the view of the provincial bodies responsible for regulating the practice of architecture in Canada as a whole that the qualification and standards for this evolving paraprofession must be developed on a national scale, coordinated with those standards now in place for the architectural profession. This bill would bypass that imperative.

(4) The AATO bill does not perform well under the government's red tape test for regulations. It is deficient in the following ways:

(a) The bill is not necessary to permit the AATO to govern and discipline its members.

(b) Members of the AATO already have the right to use the titles "architectural technologist" and "architectural technician."

(c) There is no sound rationale supporting the proposal to make use of these titles exclusive to the members of the AATO — the AATO acknowledges that others have equivalent qualification.

(d) The qualifications of individual members of AATO vary broadly. Qualifications for membership in AATO are established by internal bylaw with no public overview. This is a matter of some concern when considered in the context of the Ontario building code amendments and the AATO's efforts to obtain full practice rights.

(e) Such exclusive use would add cost to small businesses by requiring duplicate memberships.

(5) The AATO's position is that the exceptions currently included under section 9 would not apply to intern architects. This is a key issue. We do not accept their position and most certainly do not accept it from a legal perspective, the clear intention of the AATO to force intern architects into joining the AATO whether they want to or not.

We respectfully recommend, therefore, that there need be no further consideration of this bill, which is controversial, affects the public interest and imposes a needless regulation.

**The Chair:** Thank you, Mr Griffiths. We will now go to the next interested party. We will go through this list and then entertain questions from the committee. I would now ask Mr Robert Mitchell, special assistant, Ontario Association of Certified Engineering Technicians and Technologists, to approach the witness table.

1050

**Mr Robert Mitchell:** Mr Chairman, thank you very much for your kind welcome earlier. May I say that the Ontario Association of Certified Engineering Technicians and Technologists is pleased to be here today to make its presentation regarding the AATO act.

Mr Bruce Wells will be making our presentation, and with us is Mr Angelo Innocente, who is president-elect of our association.

**Mr Bruce Wells:** I want to take this opportunity to thank the committee for giving us this opportunity to speak with you. I'd also like to pass on the apologies of our president for not being here. Our president, Mr Fred Loughheed, is, needless to say, a volunteer. He's a member of the working staff of the city of Burlington. Members around this table are well aware that Burlington is in the GTA and he's a very busy man these days. Indeed, he has some political masters who are demanding his time today.



I would also like to tell you that our legal counsel, Mr John Swan, from Aird and Berlis, is not here today. Mr Swan is not here because I did not ask him to come. He is available to Mr Twohig, your legislative counsel. Some of you who are in the legal profession may have known John Swan as a teacher in the legal profession. John happens to be teaching a course at McGill University this semester, and I didn't think it necessary to bring him up and have him cancel his classes at McGill to be here today. If that is necessary, in time that can be done.

I'd like to take five minutes and talk to you a little bit about the Ontario Association of Certified Engineering Technicians and Technologists, which is known as OACETT, and then I'd like to take three or four minutes and talk to you specifically about the AATO act.

I'd like to start out at the beginning and say to you this: that OACETT is not opposing this particular act. We are making recommendations for some changes in the legislation, but this association is not opposing the AATO act.

I would just also make a few comments to say that I endorse everything that Mr Hornblow said about the members of AATO. AATO is a first-rate organization of high quality professionals, and they have an extremely good track record in this province. Having said that, I don't always agree with their executive, but let me be very clear in saying that this is a quality group of people, and this association is not opposing that act.

OACETT was established by the Association of Professional Engineers in Ontario at the request of the province of Ontario in 1957. It was established because at that particular time there were a large number of people with technology backgrounds coming to this province from Europe and there were no guidelines or certification or standards involved. OACETT was established initially to address those issues and to also look at this newly emerging professional group in terms of its recognition in the workplace.

We have been involved in the development of standards and the certification against those standards since 1957. Mr Mitchell has — and I'm not sure whether it all was passed out to you, but I would particularly have you take note of the national standard in building technologies that OACETT has established through the Canadian Council of Technicians and Technologists, in which we're very actively involved, and also the civil engineering technology and civil engineering technicians' standard, which have been established in the province of Ontario, which also deals with building and in which OACETT has been and continues to be a very active member.

We certify people in 13 disciplines, in some 64 sub-disciplines, and within our civil structure and within our applied science structure we get into a large number of people in the building, construction, structural and related areas. Indeed, we probably have more members of OACETT in that particular area than AATO has in total membership.

I should also point out that OACETT has been working very closely with Professional Engineers Ontario. We've just done a very major brief for fundamental review in Professional Engineers Ontario. This is an area that I'll make a couple of comments on before I go on.

We have also worked very closely with the Ontario Association of Architects. We have joint executive meetings with them — had one about a month ago; expect to have another one — and we have found them to be a quality group of people to work with. We also work in this province with the Ontario land surveyors. Indeed, the land surveyors are moving out of the technician/technology business, moving it into OACETT, and we are going to work jointly with them in terms of development programs.

I'd also note that we have worked very closely with the consulting engineers in Ontario. We sit on the sectoral council that the province of Ontario has set up for the consulting engineering community. Professional engineers have two members, consulting engineers have two members, OACETT has two members, the chairman is Oskar Sidvaldason, the president of Acres International, and the province of Ontario has two members on it. Your assistant deputy minister in economic development, trade and tourism, Peter Sadlier-Brown, is your senior representative on that group.

Interestingly enough, when I leave this hearing one of the things that I will be doing tied into that process is helping PEO and CEO to set up a special kind of placement unit to help to place people out of the Ministry of Transportation and the Ministry of Environment and Energy who are being downsized out. We're going to try to do a job to help them move into areas there.

I want to make one final comment before I move into the specific piece of legislation. I want to make this because I think you and I will be seeing more and more of each other over the next year or two. The major issue in this particular area has nothing to do with the OACETT act, the AATO act, the PEO act. These are all nice little silos all out looking internally in, looking after their own little piece of turf. What we really need to be looking at is the necessity to recognize that in the engineering, applied science, design profession occupations are beginning to overlap and integrate, and what the technologist does and what the professional engineer does and what the chemist does and what the mathematician does and what the design professional does and what the architect does mesh into a kind of process. What that basically means is that the governance structures that exist in this province today to regulate this kind of activity don't make any sense any more.

The major issue that this committee really needs to be thinking about, and I'm on my soap box a little bit, is the issue of harmonization and how to pull this all together so that, frankly, over the next 10 and 15 years the public welfare is looked after and Ontario becomes competitive in terms of working in the marketplace.

We have done a major brief on that, Towards the Future. Mr Mitchell has copies of it. I don't know if it's been passed out, but I hope each of you will take it. We did this as part of our effort with professional engineers in terms of looking towards the future, and I think really that's where we need to be looking rather than at various areas of turf.

Having said that, let me go to our brief, which you have seen. I might add that this brief was initially written in draft in February 1996, when the initial legislation came out.



I have mentioned where OACETT certifies members. I have indicated to you that OACETT certifies a large number of members in our civil and applied science disciplines and that a large number of those people are involved in building, building-related and construction activities. They're chief building officials, they're building inspectors, they're involved in construction activity. They're also in the consulting engineering field, where most people don't recognize some 40% of the employees in the engineering community in this province are technicians and technologists, and that of course is why we're so actively involved.

1100

We are concerned about the legislation as it exists, and I should add that our lawyer, Mr Swan from Aird and Berlis, is concerned. Our concern is that section 12, which relates back to subsection 9(2), might well make it an offence for the members of OACETT to in effect do what this legislation, through the OACETT act, and what OACETT, through its designation of titles, has allowed them to do. Our suggestion is that there is a problem in that particular area that isn't clear and that needs to be addressed.

We also are concerned about the term "registered building technologist," not because we don't believe that the architectural technologist should have the right to some title as a building technologist, but we recognize that we have a major role to play in that particular area. Accordingly, we have suggested to you that there might be a possibility to change that particular legislation and use the term "registered architectural building technologist." As our brief indicates, that allows OACETT to continue with the area that we have been involved in in terms of more the engineering building technology.

Let me just sum up by actually reading to you the recommendations that we have to this legislation. I'm then going to turn it over to Mr Innocente, who's had a chance to look at those drafts that I haven't, and let him comment on them. He didn't know that probably, but I haven't had a chance to read them.

Our recommendation to this committee is as follows, and it's on page 5 of our brief, section E, "Recommendation."

OACETT does not recommend that the committee not proceed with consideration of the AATO Act; it merely invites the committee to consider the large issue that has been mentioned. That's harmonization, and I think you need to think of these things in that context.

OACETT recommends to the committee:

(a) That the AATO Act be amended to provide that the terms "registered building technologist" and "registered building technician" in subsection 9(1) become instead "registered architectural building technologist" and "registered architectural building technician".

(b) That section 9 of the AATO Act contain a further saving provision stating:

"9(4) Notwithstanding the provisions of subsection (2) of this section, a person is not guilty of an offence under this act if he or she, being a member in good standing of the Ontario Association of Certified Engineering Technicians and Technologists or any successor body, uses the designations "architecture," "architectural," "building

technologist" or "building technician" as part of a qualification or designation properly conferred on him or her by that association."

Those are my comments. I thank you for listening. I would just ask Mr Innocente perhaps to comment on those which I haven't had a chance to read. I just got them, as you know, when I sat down.

**Mr Angelo Innocente:** The suggestions that Bruce had indicated before me are not recommended motions at this time, but if they are put forth by the committee then we will deal with them at that time.

Let me just say as the president-elect of the association and as the chair of our government affairs committee, I have a responsibility to attend this committee meeting on behalf of our members. We register members as technicians and technologists in the architectural discipline and in the building sciences and engineering discipline. We would be remiss if we were not here to ask for protection of the current titles that we now enjoy.

In reference to the proposed amendments we've indicated in our brief, if a motion is made by AATO or members of the committee to endorse those, certainly we would have a look at them and support them. Otherwise, as Bruce had indicated, we have no objections to the act other than the protection of the titles that we now enjoy.

**The Chair:** I have one other interested party, Mr Kerry Traynor of Fanshawe College. I ask Mr Traynor to approach the table.

**Mr Kerry Traynor:** I would just like to make a couple of points in one area that was brought to your attention via the OAA. It has to do with red tape. The gentleman from the OAA made mention that this just increases the red tape that goes about at both the municipal and provincial levels. The association would like to clarify that point in that we have evidence in our association that at the municipal level we help to clear red tape. Because of the professionalism and efficiency of our members, we have documentation that proves that we have decreased the number of days in which an applicant has to go through the building permit process. We have municipalities telling us that our members have provided professional documentation which speeds up or increases the speed of the process.

At the same time I make mention of the second point I'd like to make with respect to red tape. The gentleman from the OAA made mention that the title is already protected. In actual fact it may be recognized under the Architects Act, but what ends up happening is that red tape is increased simply because our association then has to liaise with the OAA to protect the public and bring people who are using the title up on charges or to be investigated, and whether they decided to be cooperative or not, we are stuck, we are limited in how we protect that title and protect the public.

The last point I want to make is that we have evidence and documentation to provide the fact that with our members and their level of professionalism we are there for the public. We have increased public awareness of who we are and of what happens in the architectural and building industry. Because our members are professional and highly qualified and have gone through an in-depth



process to become accredited, the level of service has increased and the public has been well served by that.

In summary, with this act we're decreasing the amount of red tape; we're not increasing it.

1110

**The Chair:** I think there's a final interested party, Mr David Hodgeson, if he would approach the microphone.

**Mr David Hodgeson:** Mr Chair, I wonder if it would be all right if the legal counsel addressed one technical issue, and then I could just respond to one other matter. Would that be permissible?

**The Chair:** Your legal counsel?

**Mr Hodgeson:** Virginia.

**The Chair:** Oh, I see. You're with that group there?

**Mr Hodgeson:** Yes.

**The Chair:** Which group are you representing, first of all?

**Mr Hodgeson:** I'm with the Association of Architectural Technologists of Ontario today.

**The Chair:** So your group has already presented.

**Mr Hodgeson:** They have.

**The Chair:** Do you wish to make a further comment, something that was forgotten, or is this an amendment you're suggesting?

**Mr Hodgeson:** If I may, I believe there is just one matter that was brought up during a submission by the Ontario Association of Architects with respect to process. Just by way of background, I've been with the building industry about 20 years. I have the pleasure of being the former director of the Ontario buildings branch with the Ministry of Municipal Affairs and Housing. I was in charge of the building code there. I also had the pleasure of being the executive director of the Ontario Association of Architects at one point in time, so I've come full circle.

By way of process, one thing I read in the submission by the Ontario Association of Architects is that there is a bigger picture here, and that's true. The Association of Architectural Technologists of Ontario is trying to do three things:

(1) Take control of its future. In doing that, they would like to have a private member's bill that gives them the right to call themselves what they are: architectural technologists and architectural technicians.

(2) Define a scope of practice down the road in conjunction and in consultation with the Ontario Association of Architects. To that degree they have initiated contact with the association for well over two years in trying to set up this consultative process to determine what architects should do and what technologists should do and what neither one should do, perhaps.

(3) Finally, they're trying to enhance public safety through the building code. There is an area that is now allowed to be designed by any person, and they feel, as others in the building industry do, that it's inappropriate to let me — I'm not trained in building and design — or my mother or my sister design public buildings that are under 600 square feet and can be designed by anybody. This belief is shared by the Ontario Building Officials Association, the fire chiefs, a number of people who are in the industry.

My point, in adding some light to the consultative process, is that yes, we are involved with the architects' association in these ongoing discussions about scope of practice, but in the interim plumbing inspectors, for example, have the right to title as the Canadian plumbing inspectors or certified plumbing inspectors, engineering technologists have the right to their title, as do a number of other professions. You have to understand that architectural technologists have come a long way since they were created in 1965. Just as the building industry has changed a lot, so have they, and they're prepared, they're competent, they're design professionals and they are now trying to take control of their future. Thank you.

**The Chair:** Thank you very much. I understand that the Ontario Association of Architects wishes to come back again, and I think we'll do this before we get to the committee for questions, but I want to get to questions. The Ontario Association of Architects wishes to return to the witness table to suggest a motion for an amendment. I want to qualify that by saying that only members of this standing committee make motions or amendments.

**Mr John Brunner:** Mr Chairman, I'm John Brunner, legal counsel for the Ontario Association of Architects. You're being given a handout, which is a proposal for one of your members to put a motion forward to amend subsection 9(3) of the bill.

Let me preface this by saying that this bill was in front of you in June this year, and as a result of the objection of the Ontario Association of Architects and advice you received from counsel for the Attorney General and Susan Klein, your legislative counsel, that section 9 was in conflict with the Architects Act, the public statute, the matter was voted down.

There is still the following problem with subsection 9(3): Intern architects, under the Architects Act, serving their internship use the designation "architectural technologist" and "architectural technician." They occupy positions like that in municipalities and so on. If the bill does not protect intern architects, as its present wording does not, it means that intern architects, while they are serving their internship and before they are licensed as full-fledged architects, would have to join the AATO and pay dues to them.

As a result we are proposing respectfully and requesting that the words "including an intern architect" be added to paragraph 2 in subsection 9(3) of the bill. The wording, in accordance with this handout, was prepared by Susan Klein and is most appropriate. We respectfully ask that you not exclude intern architects, that they be protected from having to compulsorily join the AATO while they're serving their internship. This is an important matter for this association. I respectfully request that and I thank you for your indulgence.

**The Chair:** Thank you, Mr Brunner. Before we leave this section of the agenda, do any other associations wish to suggest a motion at this time? I understand some other motions are being reproduced.

At this point, seeing no other requests from other interested parties, and before we go to questions from the committee, I would ask the parliamentary assistant for municipal affairs, Derwyn Shea, for comments on behalf of the provincial government.



**Mr Shea:** I think we understand the purpose of the bill. Bills very similar to this have come forward to the committee on a number of occasions. Since 1985 there have been over 20 bills of similar nature. Not all of them go through with considerable ease. Very often they have to be reshaped and structured through the discussions, and as we've heard today, the bill was brought forward to another committee, there was some concern the Attorney General's ministry had at the time and it was withdrawn to deal with that objection.

The Attorney General's ministry is now harbouring no further objections. We have canvassed other ministries, and no other ministry is expressing objections. More appropriately, they indicate that no position is reflected on the request for this bill. I think the ministries are asking this committee to be seized of the matter, listen to the issue and make the appropriate recommendations.

In my own reading of the debate it seems as though the quintessential issue revolves around section 9. That seems to be where there is a great deal of flashpoint between the two associations involved in this issue. I hope we might focus upon that to begin with in questioning. Otherwise we may be here for some time.

Clearly the request here is that the Association of Architectural Technologists of Ontario is asking the right to do what other groups have done: confirm the titles they currently use and exercise self-discipline and do what others have done; that is, establish standards of operations and qualifications for their membership and limit the use of certain titles. Therein there is some question that we've heard from the architects, particularly as it applies to intern architects.

Other than that, this issue is quite consistent with other applications that have been brought forward, and there are no other objections raised by any ministry. At this point, since it has come back to us again, any objections of the Attorney General's ministry seem now to have been resolved to the satisfaction of that ministry and no ministry is taking position. I also have with me at the table, anticipating any questions concerning the Attorney General's ministry, John Twohig, who will be able to answer questions from legal counsel's point of view, particularly in light of any comments that might be made about the Attorney General's position on this application, attempting to go around the edges of procedures. That does not seem to be substantiated at this point. I'll leave it there.

**The Chair:** Thank you, Mr Shea. We now go to the committee for questions to the applicants, to the parliamentary assistant or to any interested parties present in the room. First question, Mr Hastings.

1120

**Mr Hastings:** I'll leave my questions till the end, Mr Chairman.

**Mr Bisson:** To the parliamentary assistant, I just want to make sure I understand. The bill doesn't change the scope of practice, right?

**Mr Shea:** No.

**Mr Bisson:** Okay. That's all I wanted to know.

**Mr Pettit:** It seems to me that between OACETT and the OAA, unless I misinterpret, we have some diametrically opposed thoughts. My question for the gentleman

from the OAA is, what is the problem, what is your major concern here with the use of the titles "registered building technologist" and/or "registered building technician" when, at the same time, OACETT has a motion to actually add the word "architectural" to either of those titles. Is there some form of a little turf war going on between the groups here? Can you clarify that for us? Correct me if I'm wrong, but on the surface it would appear that there's a little bit of petty protectionism or turf wars going on.

**Mr Brunner:** I appreciate that. In answer to the question posed, I don't think the OAA has any particular problem with respect to the designation "registered building technologist" or "registered building technician" unless someone is going to join the word "architectural" with it. But we have no position on that, on paragraphs 3 and 4 in subsection 9(1), sir.

**Mr Pettit:** It says on page 8 that there's no justification for the inclusion of the two titles "registered building technologist" and "registered building technician".

**Mr Brunner:** It's the architectural technologist and architectural technician that that's directed to, sir.

**Mr Pettit:** All right.

**The Chair:** Are there any further questions?

**Mr Sheehan:** I also heard you say something about setting standards.

**Mr Brunner:** No, that wasn't me, sir, about setting standards. It may have been Mr Griffiths in his presentation.

**Mr Sheehan:** Okay. But it did come out of the architects. Who sets the standards in your business?

**Mr Brunner:** Can I help? That's done under the Architects Act by regulation. It has to be done by regulation, which has to be approved by the Attorney General and by the Lieutenant Governor in council. So it's done by regulation.

**Mr Sheehan:** On recommendation from the board of directors?

**Mr Brunner:** That's right. We would do the first draft in consultation with the Attorney General, it would have to be passed by the Lieutenant Governor in council and become a regulation. All standards and requirements are set out in regulation form so that the government has an input as to what goes in there. We can't do it on our own, as opposed to the AATO which wants to do it on its own. We have to seek approval from the government under the statute.

**Mr Sheehan:** Can you enlighten me on one other thing? What is the significance of this term "registered"? I'm getting a little confused about this.

**Mr Brunner:** You mean the "registered building technologist"?

**Mr Sheehan:** It seems to be hung up on this word "registered" architectural technologist. I'm trying to find out —

**Mr Brunner:** It's what is required, sir. There has to be a registration. You have to become registered with the AATO in order to use those designations.

**Mr Sheehan:** So that's it.

**Mr Brunner:** That's right.

**Mr Sheehan:** Does the amendment that you've filed including the intern architects satisfy your concerns?



**Mr Brunner:** It satisfies us in terms that it protects the intern architects.

**Mr Sheehan:** And avoids the double membership?

**Mr Brunner:** Yes, that is correct, for intern architects.

**Mr Griffiths:** It does not, Mr Sheehan, with respect, address the question of registration standards.

**Mr Sheehan:** I understand that, but that's not what we're talking about here.

**Mr Griffiths:** No.

**Mr Sheehan:** Lastly, can you comment on this amendment? Who brought out this last amendment, the handwritten one, Mr Chairman, where they want "paragraphs 3 and 4 of subsection 9(1) be struck out and the following substituted... 'registered architectural building technologist'?"

**The Chair:** I'll ask the clerk to confirm that.

**The Clerk of the Committee:** That's from the Ontario Association of Certified Engineering Technicians and Technologists. Those are amendments that they have proposed.

**The Chair:** Do you have a question for them?

**Mr Sheehan:** Can you enlighten us? We've got a bunch of terminology here and —

**Mr Wells:** The recommendations that I believe you have, and I don't have a copy of them, I believe are addressed in our brief, clauses 14(a) and (b), where we have suggested some recommendations to the act which we think clarify it and protect the membership of those who are involved in this from being in a position where they might be committing an offence to use the titles and designations that are there. We did not actually draft these, but my sense from reading them is that they satisfy, if not 100%, a fair number of the needs that we were concerned about. I would think that from our point of view, if that bill was passed with these amendments, we would not be unhappy.

**Mr Sheehan:** Why would you be unhappy if it does not include these amendments?

**Mr Wells:** Why would I not be happy if it was passed this way? I can't sit here in front of this committee, which has a responsibility for legislation and integrity in Ontario, and say to you that I'm prepared to see you pass a bill that makes it possible for 2,500 of my members to possibly commit an offence because they are simply following what you allowed OACETT to do through the OACETT Act in 1984. What I am asking is that you clarify that so that that can't happen.

**Mr Sheehan:** Maybe I'm going to have to ask counsel to talk on that. I've got one last question. I think it was from over here. I don't know the gentleman's name, but they were talking about —

**The Chair:** Which association is your question to?

**Mr Sheehan:** I think it's to the people who were proposing the changes, the bill.

**The Chair:** The applicants?

**Mr Sheehan:** The applicants.

**The Chair:** Could I ask the applicants to approach the witness table?

**Mr O'Toole:** Mr Chair, if I could move that we have one member from each group at the table, it would allow us to integrate the dialogue. Let's have one from the

architects, the technicians, OACETT and some innocent bystander. There are four chairs there.

**The Chair:** There may well be more interested parties than named.

**Mr Sheehan:** I think it was this gentleman over here with the good tie — I hate to tell you that — who said that they have documented proof that they, through the application of their expertise and their skills and their method of operating, have shortened the process of obtaining approvals when somebody is trying to build a building or get a project through the planning process. I would like him to elaborate on that, if he would, whoever made the comment.

**The Chair:** We ask for a response.

**Mr Sheehan:** Your tie's not as nice as his.

**Mr Traynor:** I'm sorry; I was dressing conservatively.

**The Chair:** Mr Traynor, what association are you representing?

**Mr Traynor:** I'm with the Association of Architectural Technologists of Ontario.

**Mr Sheehan:** All right, we've got the right organization.

**Mr Traynor:** The organization I was referring to is that we have a letter here from the corporation of the city of Brampton. It was given to us and it's signed by Mr Percy Hornblow, who is the chief building official for that municipality. He has made a number of comments that endorse our association and our professionalism. I'm not sure whether this was distributed or not. No, it was not.

**Mr Traynor:** If you would like, I could read it.

**Mr Sheehan:** Please.

**Mr Traynor:** "Please convey my thanks to Mr John Hastings for taking this time to allow me to voice my opinion on the above subject matter. I would further add that I am not a member of the AATO, nor an employee of the AATO. However, I would like to provide support for the legislative changes before the House, for which I understand that Mr Hastings is the sponsor of said changes.

"My first remark is in the area of training and competency of the members in their certification process. As a guest lecturer on codes, acts and regulations, I've had time to observe said association and feel competent to the professionalism exhibited by their association. Further, they recognize the need to continue to upgrade their skills through a maintenance program.

"Secondly, in observing the members in the real world of design and application for building permits as a chief building official, I've had direct knowledge of their level of skills and would relate that it is on par with the other professionals in the construction industry.

"My last comment is in the area of building code administration. With the association receiving favourable support by the legislation, it would provide for another choice for the consumer. It would also provide for a level of competency for the client base to choose from, thereby a cost-effective approach for the small builders and contractors and home owners, should they choose.

"In closing, it would also provide to the municipal building department an assurance and quality tool, thereby reducing delays in processing time. I have also



been assured that the named association will take appropriate action to weed out the bad apples, should it be found necessary, again providing a level of assurance the marketplace requires of today's professionals.

"Again, many thanks for allowing me this opportunity to voice my opinion on such an important issue, which I can support wholeheartedly.

"I remain,

"Percy Hornblow"

1130

**Mr Sheehan:** What he is saying is it's not so much that you shorten the process; it's just giving another option to the public.

**Mr Traynor:** I believe what he is saying is that it is giving another option to the public, but because of the professionalism, it is making the process more efficient; the municipalities don't have to keep returning documents to be revised so that they are up to Ontario building code standards.

**Mr Sheehan:** Returning to whom, is the question.

**Mr Traynor:** To the client, to the design professional who is producing the documents.

**Mr Sheehan:** One last question: Would the legal counsel comment on these name changes? I understand the one that's put forward by including intern architects; that's an easy one. But I was kind of lost on "registered architectural building technologist." What difference is this going to make?

**Ms Susan Klein:** Do you want me to speak to this?

**Mr Sheehan:** If you would.

**Ms Klein:** Sure. So you're talking about the motions that the OASSET has put forward?

**Mr Sheehan:** I'm talking about the significance of those suggested changes.

**Mr O'Toole:** The word "architect" is changed.

**Mr Sheehan:** Is that it? It's suggested the word "architect" is the problem, but if you looked in the act they're talking about, aren't they already allowed to use it? Or am I reading in the wrong spot?

**Mr O'Toole:** No, "building" has been substituted for "architect." That's the key.

**Mr Sheehan:** I see. Okay. Is that the problem?

**Ms Klein:** I can't hear; I'm sorry.

**Mr Sheehan:** I gather there is some protection allowed to the architects to use the word under their act.

**Ms Klein:** "Architect," yes.

**Mr Sheehan:** Yes.

**Ms Klein:** These motions are being put forward by OASSET, not by the architects.

**Mr Sheehan:** I understand that, but will this conflict with the rights or exclusivity granted by the Architects Act?

**Ms Klein:** The one that adds the word "architectural" before "building technologist" and "building technician," the one with paragraphs 3 and 4 in the middle — these are written out here at the committee in response to the recommendations that were put forward by OASSET. I'm not quite sure whether putting the word "architectural" in there would or wouldn't be a conflict with the Architects Act. I'd be interested in hearing what the architects' association had to say about whether they thought that was a conflict. But this is kind of new to me and there is

a question whether putting "architectural" in there might lead someone to believe that you are practising architecture.

**Mr Sheehan:** That's my question. Can you get the answer, Mr Chairman?

**The Chair:** Yes. Could we perhaps continue with questions and maybe the answer will be forthcoming?

**Mr Sheehan:** Okay, yes.

**The Chair:** Mr O'Toole was next on the roster.

**Mr O'Toole:** To the groups this morning, I see this as purely a discussion about exclusivity of the use of the term "architect" and its subdefinitions, "technologist" or "technician." That's entirely the whole case. If I read Bill Pr40 and I look at the specific section 9, there's a subtlety of the terminology that changes here, which is a significant problem for me, and that's 9(1)3 and 9(1)4. You've exempted the use of the term "architect." Do you understand what I'm saying? If you look at this whole thing and everything else as the qualifiers, you define yourself as an "architect technologist" or "technician." The word "architect" is the exclusivity term. That's the OAA and your own particular group, the technicians' group.

I can understand OASSET's requirement to differentiate between the generalized term "registered building technician" and "registered architectural building technician." You see, that's the whole, entire argument. So I cannot support the current act without the amendment, because what you're trying to do is to establish the legitimacy of the term "architect" and its attendant definitions. Once that's established, is that not the attendant argument? There are two opposing, and the OAA members are here. Is that not really the argument totally? There are some other kinds of technical details here, which I'll get to. Is that it, OAA's term? You don't have a problem with the architect technician using the term, as long as it's used always with "technician" or "technologist." You don't have a problem with that, right?

**Mr Brunner:** I think, in fairness, it should be pointed out that it's not just the title "architect."

**Mr O'Toole:** There's a little more to it.

**Mr Brunner:** Sorry.

**Mr O'Toole:** In this section 9 we're dealing with — that's the problem one — it's ambiguous.

**Mr Brunner:** I agree with you, sir. It's not just the title "architect" that's protected under the Architects Act, but it's any addition to or abbreviation of the title "architect," any occupational designation or a term, title, addition or description that will lead to the belief that the person may engage in the practice of architecture. All that is the exclusive right under the Architects Act of the Ontario Association of Architects.

**Mr O'Toole:** That's what we're really attempting to change.

**Mr Brunner:** Exactly.

**Mr O'Toole:** Okay. Now, that's established, that's what this bill is about.

I have another question which is fundamental to this debate for me. It was raised by the OAA. I think it's an extremely valid question. The composition of the board itself, those people who legitimize the standards, who



says this differentiation has been established between architects and this new group called architect technologist/technician?

I'm assured by the OAA that they told me that there are ministry regulations and defined by the Lieutenant Governor etc, all this kind of very heavy material. I want to know from the technicians' group that says this is a subgroup — David, you're probably the best one. OAA has got this code of principles, code of behaviour, definitions. Who in the public or in the public eye of the government legitimizes your code of ethics and behaviour and professional standards, just you as a group? Who else on your board acquiesces on behalf of the public?

**Mr Hornblow:** Right now there are several boards within my organization.

**Mr O'Toole:** Are they all technologists?

**Mr Hornblow:** No.

**Mr O'Toole:** Are they the general public?

**Mr Hornblow:** On our certification board there are two members of the OAA.

**Mr O'Toole:** Two OAA are on your certification board?

**Mr Hornblow:** Our certification board is in charge of reviewing the membership that comes in, is in charge of seeing that their credentials are met, the standards within the organization. It's within our bylaws that we have two OAA members present at our certification board. They've been an active member of our organization, on our certification board, from its inception. Our standards are quite high.

**Mr O'Toole:** That answers my question. Mr Chair, thank you for your indulgence. I think I've got a new body being constituted that has some representation of the general public, legal and otherwise, to say, "These are our code of ethics and standards." We're deciding here if this bill entitles them to use exclusively the term "architect" in conjunction with "technologist" or "building inspector."

Therefore, my final question is with respect to OACETT's proposed amendment, which is inserting in subsection 9(1), paragraphs 3 and 4, the term "architect." Do you agree with those amendments?

**Mr Hornblow:** To be honest with you, I do not.

**Mr O'Toole:** I've got to clarify this. If I left subsection 9(1), paragraphs 3 and 4, as is, it would appear to me that would be a further infringement on another registering group, a group of building technologists or whatever this OACETT group does. I'm not certain who they legitimize or certify. But it would appear that it's going a little bit beyond the interpretation of "architect."

**Mr Hornblow:** To be honest with you, I'd like to try to answer that question twofold, if you don't mind, if you have the patience. Virginia is also going to answer some of the legal aspects. But from a layman's point of view, what OACETT is currently doing under their act they do not have the right to do under their act. Right now under their act there are only four titles they're entitled to use, just as we only have the four titles to use.

1140

In their submission to you, or their brief, they mentioned that there's certified engineering technician, certified technician, certified engineering technologist and

applied science technologist and the corresponding initials. That is in their act. I totally agree with that aspect of it.

Currently within their act they do not have the authority to say what they say they're doing under the Architects Act, because the architects are the ones who control the word "architecture" in the province of Ontario currently. Us accepting their amendment in conjunction with any other changes is actually using my bill to amend their bill and amend the Architects Act, and we're not permitted to do that. Our submission to you today is strictly —

**Mr O'Toole:** Okay. I understand. You've made a very good point, and it's important to establish that you have taken issue with the OAA, really, to say, "Can we subdivide ourselves into technicians and technologists?"

**Mr Hornblow:** No.

**Mr O'Toole:** The other issue of OACETT's legitimacy of using the term is still with OAA. I would ask them: Is OAA — if I may, through the Chair — Tony, if you could tell me, is what Mr Hornblow telling us correct, that they have been in exemption of use of the term "architect"?

**Mr Griffiths:** Under the Architects Act, they have that —

**Mr Bisson:** Excuse me, can we get him on a mike?

**The Chair:** I don't think he can be picked up on Hansard. Also, the applicants want to finish their response, Mr O'Toole.

**Mr O'Toole:** David is making the accusation, if I may, that the current OACETT group is in fact in violation or contravention of the Architects Act. That's fairly significant.

**The Chair:** Do the applicants wish to finish their response?

**Mr Hastings:** There are certain things that need to be dealt with before this committee votes on this bill and gets the whole focus back on why we're here today. Primarily why we're here today under Bill Pr40, under my sponsorship and in cooperation with the Association of Architectural Technologists, is to create a body that deals with the construction design of buildings under 600 square feet. That's one of the issues.

We're not here to debate whether another group ought to piggyback, with all due respect to the Ontario Association of Certified Engineering Technicians and Technologists. They are making proposals and amendments to this act that they have not advertised. This particular group that I'm sponsoring came here last June. There were some objections dealing with the way it was set out in the bill. The Attorney General's ministry dealt with those objections. The association went back to Virginia MacLean at Cassels Brock and Blackwell and made the appropriate changes so that they would be in agreement with the legal services group in the Attorney General's ministry. That's what this bill is about today.

There are other things that we could get into debate on about red tape and whether there was any consultation between this respective group and the OAA, but that has been left to other deputants and they have straightened out those things.



The primary focus today is whether in fact you as a committee are going to approve the bill as is. I can tell you that the Association of Architectural Technologists is not in any way, shape or form accepting any amendments to this particular bill. The group has gone out and addressed, in good faith, what the concerns of the Ministry of the Attorney General were that were brought previously by the other groups last June. That's what the primary task, I believe, of this particular group is today.

I'd like, with all due respect, to allow Virginia MacLean to explain and straighten out some of these confusions that have arisen as to the definitions and why we're here as well.

**Miss MacLean:** I will deal with the Architects Act and then I will deal with the Ontario Association of Certified Engineering Technologists and Technicians act.

Dealing first with the Architects Act, as I indicated in my opening remarks, we were before the standing committee on legislation in June 1996. We advertised in August 1995, and we worked with the OAA from then till June, and we found that we had one problem, and that was whether or not this bill, this private act, was amending a piece of government legislation, the Architects Act.

At that meeting, Mr Lundy, who also represented the OAA — and I'm quoting from Hansard — said: "Let me also be perfectly clear that the Ontario Association of Architects does not wish to block the passage of a bill like this. In fact, we have made one proposal which will address the concern, a four-line proposal which we've asked to be inserted in the act and as presently drafted would address the association's concern."

Just as a matter of comment, we were astounded that a brief was submitted to you today. We had not seen that brief, and this is the first opportunity we've had to respond.

With respect to that amendment, we have received and we looked at the brief. Mr Lundy included a letter. I responded to Mr Brunner. Mr Brunner said to me he thought the amendment, which had been prepared by legislative counsel, which is now before you —

**Mr Bisson:** Which amendment is that?

**Miss MacLean:** It's the subsection 9(3) amendment. That was an amendment from the bill in June. Regarding the subsection 9(3) amendment, in November Mr Brunner said to me he thought we had a problem here because intern architects would not be permitted to use the clause; would we consider an amendment? I said no, that legislative counsel had looked at it and they were satisfied. They're the people who make a determination whether you have a conflict with government legislation, general legislation. They were satisfied that there wasn't a problem; it could be read one way or the other, but there wasn't a problem. The Ministry of the Attorney General has now said there is not a problem. We take the position there is no problem, there should be no amendment.

*Interjection.*

**Miss MacLean:** My letter, in response to you, was saying that we are not prepared to agree that an intern architect be permitted to use the title. You asked me in the letter whether or not my association, my clients, would agree. I said no, they would not agree. That's what we said.

*Interjections.*

**The Chair:** Order, please.

**Miss MacLean:** The next issue I want to deal with is the OACETT issue. They have an act very similar to the one that's before you. They are now saying they want it changed. They are attempting, as Mr Hornblow said, to change their act through this act. It's not appropriate. If they want to bring an amendment to their act, fine, let us deal with it.

The addition of the word "architectural," as Susan Klein has indicated to you, is problematic as to whether that inclusion of that word makes it a conflict under the general legislation and whether we are not in fact creating what we created last June. For that reason, we would say please do not endorse the amendment.

Our position quite clearly is that this bill satisfies the concerns of legislative counsel. There is no conflict. It is no different than what you have passed, as the parliamentary assistant indicated, many times in the past. If you look through all the acts that were named, you're going to find the same sections in those acts. There's no difference today. This is a private act; it's not a public act. That's why we don't have public representation on their approval authority. It's private, the same as it is for all the other associations, except for architects.

**Mr O'Toole:** That somewhat clarifies. I just want, in my own mind, through the OAA, if I may, what is the term for the "intern" in architecture? The study of architecture involves formal academics and then some kind of hands-on period, like an engineer before they become a PEng.

**Mr Brunner:** Yes, sir, that's right.

**Mr O'Toole:** How long is that?

**Mr Brunner:** It's 36 months.

**Mr O'Toole:** Three years internship?

**Mr Brunner:** That's right. That's the practical experience.

**Mr O'Toole:** Yes, working in the field after their academic thing. So it's three years where they would be in limbo, they'd be an intern.

**Mr Brunner:** That's correct.

**Mr O'Toole:** For a professional engineer, I think that's a much shorter period, is it not? That seems like an unduly long period of time. I think it's one year for a PEng.

*Interjection.*

**Mr O'Toole:** Two years? Okay, that helps me. It's a three-year period they'd be neither an architect nor a technologist; they'd be an intern, architect intern.

I want to question Miss MacLean on the preamble, if I may. In the preamble it's very clear to me that "exclusive use of the designations 'architectural technologist' and 'architectural technician'" are what this bill is about. That's the preamble on page 1. There's no reference to any other term besides very specific differentiation of the term "architect."

1150

**Miss MacLean:** In terms of use of title, that's correct.

**Mr O'Toole:** That's right. However, if I go to 9, I see two new terms. In my humble view, as a layman walking down the street, it's a big jump from a "building technologist" to an "architect technologist." That's a huge leap.



Please help me through that. It doesn't necessarily imply that one is a carpenter. I'm trying to clarify how you can assume in the preamble that this argument is about the term "architect," and all of a sudden you're defining yourself as a registered building technologist.

**Miss MacLean:** That's just the preamble to the bill. It's a condensation. You have to read the bill to find out the rest. You'll find the same in all the other acts: It will be condensed.

**Mr O'Toole:** So in the preamble, would you like to modify that to include other terms as inserted?

**Miss MacLean:** I didn't draft the preamble, and perhaps you could ask legislative counsel to clarify.

**Mr O'Toole:** Because that's what entirely this is about if you look at the Architects Act itself. I've made my points, and I have some difficulty with the continuity. I support completely the envisioned energy of the architect technicians to pull themselves away and get on with doing their job and quit dealing with a bunch of bureaucrats. That's what it sounds like to me.

**The Chair:** Any comments from legal counsel?

**Ms Klein:** I just wanted to say that the preamble does refer to "registered building technologist" and "registered building technician." It's a little way down, but they are there.

**The Chair:** Okay, good. I'll go on to the next question.

**Mr Ruprecht:** I normally look for leadership to the MPP who introduces the bill, and while I appreciate what Mr Hastings has said, I'd like to follow up on the question that was originally put by Mr Pettit, or there was a connection anyway to Mr Pettit's question. But this is to Mr Hastings, if you don't mind.

**The Chair:** That's Mr Hastings as the sponsor? Go ahead.

**Mr Ruprecht:** Mr Hastings, I listened carefully to your remarks earlier. Do you see any compromise in this at all? That's my first question, and then I have one more.

**Mr Hastings:** No, I do not, Mr Ruprecht, primarily because the Association of Architectural Technologists over the years, but particularly since they've applied for designation here, have made repeated attempts to deal with those concerns with the Ontario Association of Architects and with the other groups. That was part of the problem when we came here last June in sponsoring the bill. That was the problem that legislative counsel had in terms of how you define these definitions of "architectural technologist" etc. I think the association has made an excellent attempt to resolve that issue.

As to the other issues, I don't see any particular immediate handmade resolution, Mr Ruprecht. There have been attempts made. I think it points out comments made by the leadership of the Association of Certified Engineering Technicians and Technologists that there is a need to get these groups to work over time, and when I say "over time," as I said to them yesterday, it will be over quite an amount of time before these things get resolved, because I see it in other areas.

Maybe way back, the resolution of how these respective groups were established wasn't looked at in the long term in terms of all the cross-relationships and the

implications of those cross-relationships when you start sorting out what are the scopes of practice for respective groups. That's one of the things that certainly needs to be dealt with in terms of the overall harmonization of these issues.

Right now I think they need to get to work, but whether you're going to get immediate resolution — as you can see by the statements made by the various representatives here, I think you're going to be looking for some time before that resolves in an easily made resolution.

**Mr Ruprecht:** I was originally going to recommend that the parties get together and come back, but after listening to Mr Hastings there doesn't seem to be any use to that.

**Mr Bisson:** I wonder if I can call before the committee — maybe Mr Hastings can stay and I can get the executive director, Peter Adams, to come forward. I'll try to do this as quickly and painlessly as possible.

**Mr Adams:** I'd love that.

**Mr Bisson:** Here we go. You want us to pass a bill that will in the end give you the ability to form an association, basically?

**Mr Adams:** Actually, there's a little bit of a misnomer. We've been around for over 30 years.

**Mr Bisson:** No, but in a legal sense.

**Mr Adams:** In a legal sense, yes. Just like the architects have the legal right to use their name and the engineers have the legal right to use their name, we'd like to.

**Mr Bisson:** So you want to have that said, and it has absolutely nothing to do with scope of practice? Scope of practice will be dealt with between the architects and the technologists; you guys will work that out later? You're not asking us to change the scope of practice?

**Mr Adams:** Exactly, and just to further qualify that, we certainly heard today that if we had a problem with the other groups that have been alluded to, such as the Attorney General's office, they would have enunciated that this morning, so we're not in conflict with those other pieces of legislation.

**Mr Bisson:** That was going to be my next question. This particular committee cannot bring bills before it that are going to change public policy, and that's what I was going to ask leg counsel. In your view, does this affect public policy? Is this in conflict with the AG's act?

**Ms Klein:** No, the bill is not.

**Mr Bisson:** So that clarifies that. That's out of the way. You're not in conflict according to leg counsel.

The next thing is in regard to this particular amendment. Maybe I misunderstand, but I'm going to try this in my own way. This particular amendment is not an amendment put forward by your association?

**Mr Adams:** No, not at all.

**Mr Bisson:** What this amendment is asking you to do is to basically include the term "intern architect" under your association.

Let me put this in my layman's terms. I'm an electrician and I have designations as an electrician that say I can work on stuff over 750 volts and I'm licensed by the province of Ontario. If I was to accept this here into your act the same as we were to accept, let's say, an engineer-



ing student who is doing a co-op placement — let me try to make that even simpler.

An electrician has the right to do work according to what's set out within our ticket. If I was to accept this premise under the electricians, it would be like saying to the engineering student, "Come in and do the work of the electrician."

**Mr Adams:** Yes.

**Mr Bisson:** So really that would make my certificate mean nothing.

**Mr Adams:** Meaningless, yes. What the architects in effect are asking for is to make our title meaningless by including interns in it. If the interns are allowed to practise, you heard them mention that it's a three-year process, so day one of their internship they get to hold the title "technologist." Someone who studied — our tax dollars pay for those college programs to turn out technologists, architectural technologists, every year. Their title after they've gone through their internship — they could be in practice for 40 years and they'd be on the same footing with somebody on day one of their internship as an architect. That's what they're asking for.

**Mr Bisson:** But let me clarify the other part. These intern architects, in the end, would not be members of your association; they would go to the other?

**Mr Adams:** No. If they wished to belong to the association —

**Mr Bisson:** Once they graduate. That's what I'm saying.

**Mr Adams:** Yes, but certainly they're under no obligation to join or not. That's their choice. It's freedom of choice. We don't mandate in the province people joining the association.

**Mr Bisson:** So you don't want their dues? This is not about you saying, "I want the dues"?

**Mr Adams:** No, we don't want their dues — well, I should change that. If they're out there, we'd like their dues.

**Mr Bisson:** But I'm trying to clarify for people: This particular amendment is not an amendment where you're saying, "there are 2,500 people out there and I can get their dues," and get them to pay dues to your association.

**Mr Adams:** Not at all.

**Mr Bisson:** In fact, you want quite the opposite?

**Mr Adams:** Yes. In fact, we're quite concerned that if that were included, our title would be meaningless.

**Mr Bisson:** In other words, a person who has done three years of college to get the certification of architectural technician —

**Mr Adams:** We do a five-year internship.

**Mr Bisson:** It's a larger requirement than I thought then.

1200

**Mr Hornblow:** As the program is set out right now, if you're a three-year graduate out of a college course that is not co-op or not a Ryerson course, you're looking at a minimum of four years' internship. At the end of the four years' internship, you're looking at a full-day exam, but while you're going through your internship you're doing continual upgrade courses and seminars to achieve your full internship.

**Mr Bisson:** And at the end of that you become an architectural technician, technologist.

**Mr Hornblow:** That's right, as granted by our certification process.

**Mr Bisson:** So if we accept this amendment, the people who are interning as architects would have the same qualifications as somebody who's gone through the educational requirements of both the college and the internship.

**Mr Hornblow:** Yes.

**Mr Bisson:** Gotcha. So I should vote against this.

**Mr Hornblow:** Yes.

**Mr Bisson:** That's all I need to know.

**Mr Wells:** Perhaps I could clarify an issue, Mr Chairman. Am I entitled to do that?

**The Chair:** That's a good question.

**Mr Wells:** I only brought one delegation, not 15. I didn't realize I could bring 15 and have them jump up and make comments.

**The Chair:** Just give me a minute to find out if this is proper procedure.

Yes, you can respond. I just want to clarify that this is now in the hands of committee members to query applicants and interested parties, but if you wish to —

**Mr Wells:** I just want to reiterate what I said in my brief before, that OACETT certifies members in 13 major disciplines, in 64 subdisciplines, including construction, building, structural, and a variety of things like that, and has been doing that for about 40 years. To suggest that the 2,000 or so members that we have, almost double AATO, in the building construction and civil area have no right to be there is nonsense.

I would also like to point out that we submitted our brief first in February of this year, when the AATO act came out. We met with the president of AATO on Wednesday, March 13, and Mr Hodgeson and others. We have worked through this process in terms of it with our draft brief. We have had no cooperation. In fact on March 10, 1985, the architectural technologists asked OACETT's recognition of AATO's sole governance for architectural and building technicians and technologists in Ontario. We have said no. We're in that business; we plan to stay in that business because our act allows us to do it.

We have come in here with what we thought were some professional and rational and intelligent recommendations to make this act work and have in effect said we would support it. Like the architects, and I understand their frustration, we run into this stone wall too that says, "We know everything and we won't listen to anybody else."

I just want to say that I get a little frustrated when we get into a turf war and forget about all the major issues that need to be done in this area. I get sick and tired of wasting my time on turf when the high-road issues and harmonization is where we need to go. I think what we have put there is a professional, responsible way to get this out of the way so we can get to work on the things that have to be done that we elected you to do.

Thank you, Mr Chairman. I'm sorry if I butted in, but I needed that addressed. I wanted you to know where we have been on this. Indeed, we were at your committee



back here in June and I spoke about our concerns at that time.

**Mr Bisson:** My very last question to the member who's sponsoring this: Do you support this bill as printed?

**Mr Hastings:** Absolutely.

**Mr Bisson:** Without the amendment?

**Mr Hastings:** Without any amendments.

**Mr Bisson:** You've got my support. That's what I needed to know.

**Mr Shea:** I still think section 9 proves to be the area of some concern, and I see that being acknowledged by OACETT. I gather, at least with the nodding of heads, that there is some concern that there is a need for amendments. I also have some concerns on behalf of the architectural association and I would like to ask Tony Griffiths a couple of questions just to pick up on the points raised earlier. Tony, if you could just get to the desk, please. Then I want to ask legislative counsel and also the Attorney General's staff for a comment. I think we are trying to deal with this today if we can, but I recognize the time that's going on and the fact that there seems not to be consensus yet.

Mr Griffiths, let me ask you a question about the suggested amendment that's put before the committee, of which I gather you or your association may be the author, moving that "paragraph 2 of subsection 9(3) of the bill be amended by adding 'including an intern architect' at the end." Is that your recommendation?

**Mr Griffiths:** Yes, it is, Mr Shea. We feel it would give our members an additional level of security which we feel to be necessary in the climate we're dealing.

**Mr Shea:** Let me see if we can cut to the chase here very quickly, because Mr Bisson and I are both trying to focus on exactly the same kind of an issue and I want to make sure there is no misunderstanding. In response to a question put to him by Mr Bisson, the executive director has indicated, "The concern we have is that when a technologist is now recognized as a technologist" — and that's after three years plus internship, and they've now granted certification — "they then have to stand on the same level as a person who has just graduated as an architect from the university." Let's leave aside the status issue for a moment and so forth, but has that essentially put the issue?

**Mr Griffiths:** It's put it in a particular light. During the five years, sometimes six years, of study at schools of architecture, the study is, agreed, more holistic, dealing with other issues than purely technology, but technology is not ignored by any manner of means. So architects, when they have passed their architectural certification at the CARB, are in my opinion quite capable of doing technological work within section 9, which is also open to any member of the public at this time.

**Mr Shea:** You say "in your opinion," and therein hangs a tale. Who makes that determination?

**Mr Griffiths:** The qualifications of graduates from schools of architecture are certified by the Canadian Architectural Certification Board, which visits schools, assesses them, judges whether they're competent and so on.

**Mr Shea:** Would they be prepared to say that the student who has graduated from a school of architecture

and has now become an interim architect has the same level of competencies and capabilities as a person who has now been granted the technologist certification?

**Mr Brunner:** No, sir. They only deal with academic qualifications. They certify the academic qualifications obtained by a person who wants to obtain a licence under the Architects Act.

**Mr Shea:** Thank you, I appreciate that. Now we're beginning to peel away the onion. What is the intern architect referred to when they graduate and are assigned to a supervising architect?

**Mr Brunner:** He's a person like a doctor or a lawyer who is serving a period of practical experience, an internship for a certain period of time as specified in the regulations.

**Mr Shea:** Are they referred to as an architect?

**Mr Brunner:** No, intern architect, sir.

**Mr Shea:** They are referred to as an intern architect?

**Mr Brunner:** Yes, that's set out in the regulations.

**Mr Shea:** In the Architects Act?

**Mr Brunner:** In the regulations under the Architects Act.

**Mr Shea:** So they are in fact already covered and can sign themselves as an intern architect.

**Mr Brunner:** They can call themselves "intern architect."

**Mr Bisson:** They can't approve them.

**Mr Shea:** I understand what they can and cannot do as an intern.

**Mr Brunner:** That's why the position of the AATO is curious, sir. They just said to you before, "We don't want any part of them," yet they're not prepared to write that exclusion into their statute. You must ask yourself why. Why?

**Mr Bisson:** That's not the issue.

**Mr Brunner:** They're in there. They're in our section 46, sir.

**Mr Shea:** I think we're asking the question of why the intern architect is not included there as an exclusion by saying he should not be there.

1210

**Mr Brunner:** The problem becomes, sir, that the intern architect as such is not referred to in subsection 9(3) of the proposed bill. Since he's not referred to, if, while he's doing his internship — many of these people work as architectural technologists. They hold those titles. They wouldn't be able to continue to do that under the present bill unless they joined the AATO and paid their dues.

**Mr Bisson:** No, no.

**Mr Brunner:** That's exactly right, sir.

**Mr Shea:** So you're now telling me that intern architects in some instances are to sign themselves as technologists?

**Mr Brunner:** No. Municipalities, for example, have positions called architectural technologists, and some intern architects apply and do hold those positions.

**Mr Shea:** That would fall surely under the phrase "or equivalency," would it not?

**Mr Brunner:** I don't know. It depends. But if the title of the job requires the person to use the words "architect-



tural technologist,” the intern architect wouldn’t be able to hold that position without joining them.

**Mr Shea:** So the architectural association wants the intern architect to be able to designate himself or herself as an intern architect or a technologist.

**Mr Brunner:** Architectural technologist.

**Mr Shea:** They want the option to go either way.

**Mr Brunner:** While he’s an intern, only. Only while he’s an intern.

**Mr Shea:** I understand your position very clearly now and I now do understand the bill very clearly in that sense. That’s what Mr Bisson and I want to make sure we’re very clear about. I have no other questions.

I have a question now of legislative counsel and the Attorney General. Let me start with the AG. Are there any comments?

**Mr John Twohig:** Mr Shea, my only comment was that when I read the exception that was proposed in subsection 9(3) of Bill Pr40, I perhaps naïvely read that exception to include intern architects, because they are a class of people created under the Architects Act by regulation who are entitled to use the term “architect”; in this case, “intern architect.” I would have thought they were covered.

I understand from legislative counsel that they agree that argument is there. It’s now become apparent, as of last Thursday, that there is a disagreement. One side believes they are not; the other side believes they are. It’s for this committee to decide whether or not they want the bill to go forward or whether they want that absolute protection put in there to make it clear that intern architects are or are not included.

**Mr Shea:** Let me just ask leg counsel.

**Ms Klein:** I agree with what Mr Twohig says, that that’s the picture.

**Mr Shea:** Terrific. Thank you both.

**Ms Klein:** Do you want more clarification?

**Mr Bisson:** I realize what he’s saying.

**Mr Shea:** I know what he’s saying.

**Mr Bisson:** You could have made that a lot simpler. Basically, they want the same right as technologists.

**Mr Twohig:** When you say “right,” you’ve seized upon the first issue when you say, “Is there a scope of practice?” There is no scope of practice.

**Mr Bisson:** That’s right. Not bad for an electrician.

**Mr Shea:** The final question I think, Mr Chairman, has to go to OACETT. Do I take it from the deputant that there is a lack of comfort with the bill as it is appearing before us right now?

**Mr Wells:** There is a lack of comfort with the bill that was handed to you. The concern, as we have expressed, is that we feel it puts a goodly number of our members in jeopardy who may be subject to prosecution because they are basically doing what the OACETT act and OACETT, which you adjudicated many years ago, have entitled them to do. That’s in the building areas. We have put some recommendations that we think cover that without taking away from the act. I want to restate we are not opposed to the act.

**Mr Shea:** Okay, you’re not opposed to the act. That’s number one. We’re getting there, sir. We’re almost there now, I hope.

Number two is that the introduction of the word “architectural” has been flagged as causing some concern. The committee can ignore that if it wishes, but the other part is the concern that you’re placed in some jeopardy. Would you not agree that section 12 provides the comfort that you’re actually looking for?

**Mr Wells:** Our lawyers — and I apologize that they’re not here — suggest that section 12 refers back to 9(2), and 9(2) specifically talks in terms of building technologists, architectural technologists. So our sense is it is not sufficiently clear that there might not be grounds for a prosecution.

**Mr Shea:** So that now becomes just a legal — I don’t mean it in a pejorative sense, but that becomes a legal definition of whether you’re in or not. But there is some question of whether you’re included, and in that regard let me just ask leg counsel to respond.

**Ms Klein:** I think the offence is to use the term “registered building technologist” or “registered building technician.” I think it is not an offence to continue to use the words “building technologist” or “building technician” without “registered” in front of them.

**Mr Shea:** But they could in fact use the title?

**Ms Klein:** I think they can use “building technologist” and “building technician.” I don’t think that would be an offence under this Bill Pr40.

**Mr Wells:** How about “certified building technologist” and “certified building technician,” since we are a certification body and use the term “certified” in all our other titles?

**The Chair:** Is that a question to legal counsel?

**Mr Wells:** Yes.

**Ms Klein:** I think you can use anything except “registered building technologist” and “registered building technician.” It’s those three words together that create the offence.

**Mr Pettit:** I think things are starting to crystallize. I think I was the first questioner about an hour and a half ago and at that point I indicated that in my view I see a little bit of petty protectionism, if you will, developing here. I think Mr Ruprecht picked up on that also. Things were really starting to brew there for a bit.

What I see here is a Bermuda Triangle, not just from the professional side but also from the legal side. Mr Hastings, when questioned, says he sees no compromise. Mr Wells states that he’d like to see some type of high-road harmonization. I hope the three groups could get together, rise to the occasion and get away from some of these playground-style antics that we’ve seen here.

I just want to clarify — somebody correct me if I’m wrong. We have the OAA saying that the AATO already has the right to use the title “architectural technologist” and/or “architectural technician,” and also that there is no justification to use the title “registered building technologist” and/or “registered building technician,” whereas OACETT is proposing to add the word “architectural” in both cases and the AATO is opposed to adding that word. Is that correct? Is that it?

**Interjection:** Yes.

**Mr Pettit:** Well, where do we go from here then?

**The Chair:** Is that correct? I’m not sure what group you’re addressing that question to.



**Mr Pettit:** I just wanted to make a couple of comments relative to the whole thing as to the way I see what's developing here.

**The Chair:** The question is, is that correct?

**Mr Pettit:** Is that basically it in a nutshell?

**Mr Boushy:** On a point of order, Mr Chairman: I think we have had enough discussion on the bill. I think we're all ready to vote one way or the other and I think the time has come to vote. As far as I can see, I'm in favour of the bill as printed. So if the time has come, I'd be glad to make such a motion and either you vote for it or you vote against it.

**The Chair:** The question has been put. Are the members ready to vote?

**Mr Boushy:** We're ready. I move that it be approved as printed.

**The Chair:** The members are ready to vote.

**Mr Bisson:** What are we voting on, Chair?

**Mr Boushy:** The bill, as printed.

**Mr Bisson:** Can I ask for — never mind. It's going to complicate things.

**The Chair:** Before we vote, I would ask are there any amendments to Pr40? Okay.

We are voting on Bill Pr40, An Act respecting the Association of Architectural Technologists of Ontario, sponsored by Mr Hastings. In keeping with accepted procedure to date, we collapse sections to vote on sections by grouping them together.

Shall sections 1 through 15 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

I wish to thank the applicants and interested parties. I declare the order of business closed.

*The committee adjourned at 1221.*











## CONTENTS

Wednesday 4 December 1996

<b>Ottawa Civic Hospital Act, 1996, Bill Pr35, <i>Mr Patten</i></b> . . . . .	T-169
Mr Richard Patten	
Mr Sol Shinder	
Mr David Hill	
<b>Association of Architectural Technologists of Ontario Act, 1996, Bill Pr40, <i>Mr Hastings</i></b> . . . . .	T-171
Mr John Hastings	
Miss Virginia MacLean	
Mr David Hornblow	
Mr Peter Adams	
Mr Anthony Griffiths	
Mr Robert Mitchell	
Mr Bruce Wells	
Mr Angelo Innocente	
Mr Kerry Traynor	
Mr David Hodgeson	
Mr John Brunner	

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\*Mr John R. O'Toole (Durham East / -Est PC)  
\*Mr Trevor Pettit (Hamilton Mountain PC)  
Mrs Sandra Pupatello (Windsor-Sandwich L)  
\*Mr E. J. Douglas Rollins (Quinte PC)  
\*Mr Tony Ruprecht (Parkdale L)  
Mr Mario Sergio (Yorkview L)  
\*Mr Derwyn Shea (High Park-Swansea PC); parliamentary assistant  
to the Minister of Municipal Affairs and Housing  
\*Mr Frank Sheehan (Lincoln PC)  
\*Mr Bruce Smith (Middlesex PC)

*\*In attendance / présents*

**Also taking part / Autres participants et participantes:**

Mr John Twohig, counsel, public law and policy division,  
Ministry of the Attorney General

**Clerk / Greffier:** Mr Tom Prins

**Staff / Personnel:** Ms Susan Klein, legislative counsel

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## Legislative Assembly of Ontario

First Session, 36th Parliament

## Assemblée législative de l'Ontario

Première session, 36<sup>e</sup> législature

# Official Report of Debates (Hansard)

Wednesday 11 December 1996

# Journal des débats (Hansard)

Mercredi 11 décembre 1996

**Standing committee on  
regulations and private bills**

**Comité permanent des  
règlements et des projets  
de loi privés**

Chair: Toby Barrett  
Clerk: Tom Prins

Président : Toby Barrett  
Greffier : Tom Prins



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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
REGULATIONS AND PRIVATE BILLS

Wednesday 11 December 1996

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS  
ET DES PROJETS DE LOI PRIVÉS

Mercredi 11 décembre 1996

*The committee met at 1002 in committee room 1.*

## HURONIA AIRPORT COMMISSION ACT, 1996

Consideration of Bill Pr68, An Act respecting the Huronia Airport Commission.

**The Chair (Mr Toby Barrett):** Good morning, everyone. Welcome to this regular meeting of the standing committee on regulations and private bills. You have an agenda before you. With your permission, rather than leading off with the first bill listed on the agenda — there is, I think, some photocopying being done — I would ask that we go forward with Bill Pr68 as our first order of business. Bill Pr68 is An Act respecting the Huronia Airport Commission. The sponsor is Bill Grimmett, MPP. I would ask MPP Grimmett to say a few words of introduction and introduce the applicants for our committee.

**Mr Bill Grimmett (Muskoka-Georgian Bay):** I'm pleased to sponsor Bill Pr68, An Act respecting the Huronia Airport Commission. This act had first reading on November 28. I'd like to introduce Gary French, who is the solicitor for the commission. He'll provide any explanation required and deal with any questions.

**Mr Gary French:** The Huronia Airport Commission is a small but vital local airport operated by three municipalities. This legislation is intended to deal with a rather technical but significant problem that we've actually had for some time but only identified several years ago. I wish to point out in beginning that there are at least two other airports that found they had the same problem and have already addressed this by private legislation. Those are the Wellington-Port Colborne Airport, where legislation was passed in 1976, and the Waterloo-Guelph Regional Airport, with 1986 legislation.

I'll try to be very brief about the problem, because it is a technical one. If there are any questions, they can perhaps address that.

The legislation under which the Huronia Airport was commenced before 1965 had a specific clause in it that granted corporate status to a commission set up for this purpose. Based on that, the airport acquired the land in the name of the commission, quite properly at that time; they had the right to do that. They've continued to acquire land since then, and it's now quite a significant operation. There were amendments made to the act in 1965 which left out the section giving corporate status to such airport commissions. I haven't been able to determine why that was done. I suppose it was considered to be appropriate at the time. It was done without very much fanfare. But the effect was to leave some question as to the right and ability of a commission to own land and carry on as a body corporate.

The answer to that question isn't terribly clear. It's the sort of thing that lawyers see as a good question but no one wants to give a confident answer to. But I'm suggesting that the public interest isn't in leaving questions like that outstanding where a lot of land and property is involved. The essential purpose of this legislation is to confirm that this commission does have body corporate status and that therefore its ownership of land is proper and legitimate.

This comes up, as you'll notice in the previous two bills that have been passed, typically with airports that are operated by two municipalities. In the more common case, where there is a single municipality and a single airport, the land seems to be commonly owned by the municipality itself, and therefore the question doesn't arise.

It may have been an oversight in the amendments in 1965 or perhaps there was good reason for that. The problem is that it has left my client, the Huronia Airport Commission, with an uncertainty. On consideration, it was felt best to address this by the private bill which is before you in the same way as has been done in two instances in the past.

**The Chair:** We appreciate that brief presentation. Are there any interested parties? Seeing none, and before we go to questions from the committee, I would ask our parliamentary assistant for municipal affairs, Derwyn Shea, for comments on behalf of the government.

**Mr Derwyn Shea (High Park-Swansea):** This is a very straightforward application. The proposed bill gives corporate status to the Huronia Airport Commission, which was established under the Municipal Act in the first instance and which then went through changes. That's the reason there was some time-warping in what's before us now. Appropriately, they've come forward asking for its own incorporation. This act gives that to them. In fact, it gives it the power to acquire and hold lands since it was established in 1965, just to ensure there's no slippage in the interim years. There are no objections from any ministry.

**The Chair:** Turning to the committee, are there any questions from members of the committee or concerns with respect to this private bill? Seeing no questions, I would now ask our members of this committee, are you ready to vote on this bill? Yes?

We are now voting on Bill Pr68, An Act respecting the Huronia Airport Commission, sponsored by MPP Grimmett.

Following accepted procedure, if we could collapse several sections, I would ask: Should section 1 right through to section 6 carry? Carried.

Shall the preamble carry? Carried.



Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report this bill to the House? Agreed.

I wish to thank our applicants and declare this order of business closed.

**Mr Shea:** Mr Grimmett did a great job on that one.

**The Chair:** Excellent. We should have videotaped that one.

1010

#### WINDSOR UTILITIES COMMISSION ACT, 1996

Consideration of Bill Pr76, An Act respecting the Windsor Utilities Commission and the supply of heat energy within The Corporation of the City of Windsor.

**The Chair:** Our next order of business is Bill Pr76, which is listed at the top of our agenda, An Act respecting the Windsor Utilities Commission and the supply of heat energy within The Corporation of the City of Windsor. The sponsor for this bill is Sandra Pupatello, MPP. I would ask Mrs Pupatello to say a few words by way of introduction.

**Mrs Sandra Pupatello (Windsor-Sandwich):** I am pleased to sponsor the bill that's before the committee today. I'm going to introduce to you Kent Edwards, who is a community leader from Windsor and is also general manager of the Windsor Utilities Commission. Kent is well known in the Windsor area for taking on new and innovative projects, and this is certainly one more example of that. To his right is Ray Penfold, legal counsel for Windsor Utilities Commission, and I understand that after meetings late into the evening by Ray and staff with the Ministry of Environment and Energy, that there will be additional amendments that will be on our table shortly. I'll introduce Kent to begin a description of the bill.

**Mr Kent Edwards:** Let me briefly describe the project for you and then perhaps we can get into some detail. The Windsor District Energy Project is basically a venture in public-private partnership. The objective of the project is improved energy efficiency, application of green technology, and of course economic development within the community.

The project consists of a district heating and cooling plant, which will be constructed in the new Windsor casino now under construction. It will be designed, operated and financed by the private sector, for which we called proposals in order to attract that investment into the project. The Windsor Utilities Commission will purchase the heat from that central plant and distribute it in the form of hot and cold water under the roads of Windsor's downtown to provide environmental control within core buildings of Windsor.

The purpose of the act of course is that it is a first project of this type, and the current legislation appears to be silent on the issue of chilled water. Therefore, the definition of "heat energy" has been expanded here to include chilled water. Why we need that is that the private partners in the project, in order to attain financing, must be assured not only that there is not a law that prevents us doing this project, but also that the law is specific that we can proceed. Therefore, we proceeded, as I say, with an abundance of caution in order to put this

bill before you, and I recommend it to you. I'll ask Mr Penfold to give a few comments on the content of the bill.

**Mr Ray Penfold:** As Mr Edwards said, the purpose of this bill, from our point of view, is for certainty and clarity. The Public Utilities Act has not been amended for quite some time and our project is unique in the sense that it provides for cooling. The Public Utilities Act, by way of specific example, does not take into account cooling of buildings on a large scale, probably since the last time amendments were made it was not a practical thing to do.

We can supply hot water under the present legislation, but again there's the argument by some who would say, "Well, is hot water hot water you get out of a tap by a water heater, or is hot water something a customer can use and take energy from?" which our project intends to do. For the purpose of clarity I think it's important to have this legislation passed.

What we've done is in section 1 we've taken "heat energy" and specifically defined it so it technically meets the project. It's going to be energy conveyed by hot water, chilled water, hot air or cooled air. The reason we've included the four aspects is that really in a district energy system you are supplying hot water, chilled water through pipes to a building, but when it gets to the building, the water itself is not consumed; there are actually heat exchangers so that the energy is taken out of the hot water, cooled air, chilled water by the heat exchanger.

The next critical section of the bill is that the corporation of the City of Windsor has previously passed a bylaw, as you'll see in subsection 2(3), under section 38 of the Public Utilities Act, which entrusts the Windsor Utilities Commission to do what it intends to do with steam, water or hot water. This act now deems that bylaw of the city of Windsor to include heat energy, as now defined in this act.

Subsection (5) authorizes the council of the Corporation of the City of Windsor to designate areas for District Energy outside of the bylaw, at the request of the Ministry of Environment and Energy. They've asked that that particular section be delayed so that there would be an amendment put on the table today, which we're certainly agreeable to, that says that the act, other than subsection 2(5), will come into force on royal assent and that subsection (5), allowing District Energy to expand outside the bylaw area, will come into effect at a later date to be proclaimed.

Section 3 might seem curious to you, that subsection 40(2) of the Public Utilities Act does not apply to the commission. The Public Utilities Act specifically says that once you're entrusted with certain powers the name of the commission should then be the Public Utilities Commission of the City of Windsor, for example. The Windsor Utilities Commission — obviously, its name doesn't quite fit that. We're proud of our name — we've had it for a long time — and we'd like to keep it. That section simply says that we can continue as the Windsor Utilities Commission.

Section 4: Very briefly, the Municipal Franchises Act requires municipal approval when a corporation or an individual sells a public utility within the city limits.



However, it does not differentiate when that person is selling to its own commission, which it's doing in this case. Clause 4(a) has been amended to heat energy only, but section 4 is merely saying, if a corporation enters into a contract directly with the Windsor Utilities Commission and does not go under public streets and does not sell to anyone other than the Public Utilities Commission, that it be exempt from the franchises act. That is something the city of Windsor wanted and we're certainly agreeable to that. That streamlines the process.

Other than that, five amendments are going to be tabled and we're certainly agreeable to all of them. We've had lengthy discussion with all the ministries involved, we've spoken with Ontario Hydro, we've gotten all the comments. We think we've put together a bill with amendments that everyone's pleased with and we hope you will see fit to recommend it.

**The Chair:** Thank you, Mr Penfold. Are there any interested parties who wish to speak to this bill? Seeing none, I would now ask our parliamentary assistant for municipal affairs for comments on behalf of the government.

**Mr Shea:** Chairman, now, with the amendments on the table, there are no objections by any ministry; there is no difficulty with the passage of the bill. As Mr Penfold and Mr Edwards rightly point out, this really is a bill to provide, in their words, a certainty and a clarity to what seems to have been an understanding in the past, but it now dots the i's and crosses the t's. It allows for the advance of such things as hot water and steam, in a joint venturing capacity that may not have been anticipated in the past. History has now proven this to be worthwhile. The government does not, nor do any ministries, have any objections to the passage of this bill.

**The Chair:** I now call for questions from committee members to either the applicants or the parliamentary assistant.

**Mr John O'Toole (Durham East):** Clause 4(b) says "the person does not occupy or install any works in, under or over any highway or lane." What does that mean and why is it in there? I understand that you're producing it at the new casino centre and you're going to convey it somehow to some other building.

**Mr Penfold:** The Windsor Utilities Commission, with the city of Windsor, has the right to install pipes and conduits anywhere in the city of Windsor and under its streets. The city of Windsor has basically said that Northwind is going to be located on a piece of property; the Windsor Utilities Commission is bringing their pipes up to that property. So the city of Windsor is saying: "In cases where the Windsor Utilities Commission buys heat energy from an individual who does not try to put their own pipes under the city, we exempt them. But if Northwind or the individual tries to install pipes of their own under our streets, we want it to come back before city council." That's the purpose of 4(b).

1020

**Mr Tony Martin (Sault Ste Marie):** Are there any environmental concerns with this that anybody has raised?

**Mr Edwards:** No, we haven't received any environmental concerns. In fact, the project is seen as relatively

green technology compared to a conventional heating system for independent buildings, in the sense that there are fewer stacks, fewer cooling towers and also we're using off-peak ice-making technology so that we can make ice at night for cooling the buildings in the daytime, which uses a more environmentally friendly energy at that time of the day.

**Mr Martin:** Have you had discussions with Ontario Hydro about this and how this interferes with their ability to sell energy?

**Mr Edwards:** Interestingly, Ontario Hydro is one of the private partners in this project. I believe they had to get an order in council to participate as a private partner, and they did get that permission. Ontario Hydro has reviewed the bill, we have looked at any concerns they have, and I believe they're satisfied with the content now.

**Mr John Hastings (Etobicoke-Rexdale):** That's a curious phrase you used to describe Ontario Hydro: a private partner. They're a public corporation, really a monopoly. Aren't they just a public partner, as you are a public partner? No one holds shares per se in Ontario Hydro, except if you go way back to 1905, 1906, 1908.

**Mr Edwards:** I guess municipal utilities might believe they hold shares in Ontario Hydro, but I won't get into that debate.

Yes, it is a curious venture. We called for proposals for private parties to participate, and in fact they bring in some \$15 million in investment into the community. Originally Ontario Hydro proposed independently, and then partnered with a firm called Unicom Thermal Technologies out of Chicago, which is definitely a private utility.

As I mentioned, in order for Ontario Hydro to proceed on this basis, understanding that it was a venture project, it was necessary for them to get special permission to participate, and I've been assured by Hydro that they have that permission, and as such we refer to them as a private partner in this instance.

**Mr Hastings:** Does Ontario Hydro object to the presence of your other partner?

**Mr Edwards:** Ontario Hydro and Unicom Thermal Technologies are a joint venture, which has become known as Northwind Windsor. That is in fact who is building the plant, the joint venture, so they have elected to become partners.

**Mr Hastings:** Do you have any idea what this joint partnership is going to project in terms of cash flow over the next few years?

**Mr Edwards:** The entire project has a pricetag in the order of \$15 million to \$25 million, depending on the amount of distribution piping needed. That will generate a cash flow to pay for that initial capital and whatever energy is consumed over approximately a 20-year period. I don't have the numbers per se, but that is the principle.

**Mr Hastings:** Do you float bonds on it? Is that part of the financing?

**Mr Edwards:** It's part of the reason for the bill. Unicom Thermal Technologies is a subsidiary of Commonwealth Edison. What they have is kind of a revolving credit arrangement with the parent company, several hundred million dollars that they put out for new business development. They've developed the project with those



funds and then, once it is up and a working concern, they will put the project to non-recourse funding to restore their credit level and proceed to other projects. It will go to non-recourse funding through the private institutions eventually.

**Mr Hastings:** Do you see a lot more of the utilities in Ontario going this route? Some of the others have already.

**Mr Edwards:** Certainly Cornwall has proceeded in that way, and we've taken some lead from the work that has been done in Cornwall. It was heating only. We've expanded that to heating and cooling. There's been a lot of interest from other communities. I believe it's something that will be looked at hard in future.

**Mr E.J. Douglas Rollins (Quinte):** Are there customers who are thinking of coming on stream with this down the line, that you know of, or is it just the one customer who's going to be using that heating and cooling?

**Mr Edwards:** No. We're actively marketing the project. We have express letters of interest from several other property owners to heat and cool their buildings, including some of the provincial buildings in the immediate area. Yes, we believe the plant will be near capacity very quickly.

**The Chair:** Any further questions? Are the members of this committee ready to vote? Are there any comments, questions or amendments, and if so, to which sections?

**Mrs Pupatello:** I have several amendments to present, Chair.

**The Chair:** Could you list the numbers of the sections?

**Mrs Pupatello:** Sure, subsection 2(3), clause (4)(a), clause (4)(b), section 6, and we have a change in the preamble and the long title.

**The Chair:** Thank you for that advice. We are voting on Bill Pr76, An Act respecting the Windsor Utilities Commission and the supply of heat energy within The Corporation of the City of Windsor, sponsored by Mrs Pupatello, MPP.

Shall section 1 carry? Carried.

You've indicated an amendment to section 2. Could you read that amendment, please.

**Mrs Pupatello:** I move that subsection 2(3) of the bill be amended by striking out "works" in the sixth line and substituting "the works described in that section."

**The Chair:** Does everyone understand that amendment? Are there any questions? All in favour of this amendment? Carried.

Shall section 2, as amended, carry? Carried.

Shall section 3 carry? Carried.

There is an amendment to section 4, as I recall.

**Mrs Pupatello:** Yes. I move that clause 4(a) of the bill be struck out and the following substituted:

"(4) the contract is to supply heat energy to the commission; and"

**The Chair:** Any comments on that amendment? Shall this amendment carry? Carried.

**Mrs Pupatello:** I move that clause 4(b) of the bill be amended by adding at the end "in the city of Windsor, other than the portion of Chatham Street East lying between Glengarry Avenue and McDougall Street."

**The Chair:** Any questions about that amendment? Shall that amendment carry? Carried.

Shall section 4, with the two amendments, carry? Carried.

Shall section 5 carry? Carried.

I understand there's an amendment to section 6.

**Mrs Pupatello:** I move that section 6 of the bill be struck out and the following substituted:

"Commencement

"6(1) Subject to subsection (2), this act comes into force on the day it receives royal assent.

"Same

"(2) Subsection 2(5) comes into force on a day to be named by proclamation of the Lieutenant Governor."

1030

**The Chair:** Any questions about this amendment? Shall this amendment carry? Carried.

Are there any further amendments to section 6? Hearing no further amendments to section 6, shall section 6, as amended, carry? Carried.

**Mrs Pupatello:** I have an amendment to the preamble, Chair.

**The Chair:** Okay. I'll just pose the question on section 7 first. Shall section 7 carry? Carried.

**Mrs Pupatello:** I move that the preamble of the bill be amended by striking out "works" in the fifth line and substituting "the works described in that section."

**The Chair:** Any queries on this amendment? Shall this amendment carry? Carried.

Shall the preamble, as amended, carry? Carried.

Any changes to the title?

**Mrs Pupatello:** I have an amendment concerning the long title. I move that the long title of the bill be struck out and the following substituted:

"An Act respecting the Windsor Utilities Commission and the supply of heat energy within The City of Windsor."

**The Chair:** Any comments on that amendment?

**Mr Shea:** Was there a reason for dropping the words "within the corporation"?

**Mr Michael Wood:** Mr Chair, I wonder if I could answer the question. Yes, there is. Strictly speaking, what is required here is a reference to the geographic area, which is the city of Windsor, not the legal entity, which is the Corporation of the City of Windsor.

**Mr Shea:** That's fair enough.

**The Chair:** Any further comments on this amendment to the title? Shall this amendment carry? Carried.

Shall the title, as amended, carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Carried. Will do.

I wish to thank the applicants and the sponsor and declare this order of business closed.

**Mr Shea:** Well presented by Mrs Pupatello. That was well done.

#### CITY OF BRAMPTON ACT, 1996

Consideration of Bill Pr31, An Act respecting the City of Brampton.

**The Chair:** For our next order of business, we're considering Bill Pr31, An Act respecting the City of Brampton. The sponsor is John Hastings. I wish to apologize on behalf of MPP Tony Clement, who had a previous engagement, a long-term commitment. I would



ask MPP Hastings to say a few words of introduction and to introduce our applicant.

**Mr Hastings:** I'm subbing for Tony Clement. I don't look like Tony, and I don't have a law degree. Anyway, we have a bill here today respecting the city of Brampton, and to explain the technical parts of it we have Janice Atwood-Petkovski, who is a solicitor for the city of Brampton.

**Ms Janice Atwood-Petkovski:** Thank you very much. The purpose of this legislation is to enable the city of Brampton to pass a bylaw to deal primarily with two concerns which have arisen in the city. One is a lack of maintenance, from time to time, on the grassy boulevard areas throughout the city, primarily in the industrial areas but also on vacant lands in areas already designated and zoned residential and commercial. It's primarily aimed at trying to keep the vacant yet undeveloped lands looking nice and not all at the taxpayers' expense.

The second area that is of concern is primarily in older commercial uses which were not caught by the site plan process. Occasionally the commercial uses will not maintain the driveway apron portion of their entrance to, say, a strip plaza or what have you in an older commercial area and potholes develop, and yet that property in fact belongs to the municipality. There isn't much the municipality can do other than actually go in at its own cost and maintain the entrance to an older strip mall plaza or whatever the case may be in some of the older commercial areas.

This legislation would enable the city of Brampton to pass a bylaw which would require those owners, upon receiving due notice, to repair that area. If they failed to do so upon having been duly notified, the city would have the public works staff go in, do the repair, and the expense would be at the commercial uses' pocketbook and not the taxpayers' pocketbook. That's really the essence of it.

The amendments which are being introduced are to address concerns raised by the Minister of Municipal Affairs and Housing and reflect primarily an assurance that, in keeping with the common law, the legislation does not attempt to shift legal liability for mishaps on to the abutting owner, who may have failed to maintain. The legal liability will still rest with the municipality.

The other amendment reflects a concern that we are not trying to require abutting owners to maintain our sidewalks or our curbs or gutters; it's really only that entrance-driveway apron, if you will, that happens to cross the municipal property but is really an entrance to, say, a plaza or a commercial use or what have you, as the case may be.

Both of those amendments are fine, because they reflect the intent of what city council wanted to achieve through the legislation.

I believe you will hear from a concerned constituent. I don't want to steal his thunder, but I've spoken with Mr Haqqi, who will address you, and have discussed his concerns, and he is content that the amendments, as proposed, go some distance to addressing his concerns with respect to responsibility for the sidewalk. He has a further concern with respect to whether or not this should apply to residential properties. As I indicated to Mr

Haqqi, I have no direction from council that it should not address generally all properties in the city of Brampton.

Certainly I have made a note that when city council sits down to look at drafting a bylaw to reflect this legislation, we will include Mr Haqqi in those discussions to determine whether it's appropriate to exempt some residential areas, perhaps the residential areas that are already built out. In that regard, I would urge upon you to allow city council to exercise its discretion and have due regard to the concerns and needs of the constituents of Brampton in passage of that bylaw.

**The Chair:** Thank you, Ms Atwood-Petkovski. Are there any interested parties who wish to speak to this bill? I would ask you to approach the witness table.

**Mr Mario Sergio (Yorkview):** I have a question to the applicant first.

**The Chair:** Go ahead, briefly.

**Mr Sergio:** Did council have any public hearing of this issue?

**1040**

**Ms Atwood-Petkovski:** No, we haven't had public meetings at this point, primarily because the process of obtaining private legislation runs a little in advance of — it would be a little bit premature, I think, to have had any public meetings in advance of actually achieving the private legislation. But certainly we will. I sense that we should have at least one public consultation on this subject, and particularly as we have already undertaken at this point to involve Mr Haqqi, we will be doing that.

**Mr Grimmett:** Is this the time for questions?

**The Chair:** No, this is not the time for questions. Before questions, I would ask the committee to bear with me, if we could hear from interested parties and also the parliamentary assistant. Mr Haqqi?

**Mr Sal Haqqi:** Thank you very much, Mr Chairman. To you and members of the committee here, good morning. I'm just a stranger here, but I have a few very small concerns. First of all, before I start, I want to thank Ms Janice Atwood for her time in clarifying the situation to me, which gives me a little comfort factor that things will be done properly.

Before starting, I want to register my disappointment that our MPP, whom we voted for, unfortunately is not here, no offense to Mr Hastings, MPP. You are kind enough to fill in the spot. But I didn't vote for Mr Hastings, I voted for Mr Clement, and I expect our MPP to be here when our bills are introduced. That's my first objection.

The second thing is that I would like you to read my response. I have given a copy to Ms Atwood, and I will be happy to give a copy to the council for their meeting also.

I'm opposing the recommendation of the bill on three very simple, basic points, and I'll read them to you.

First, when we purchase our property we sign a document with the city, especially the city of Brampton, to give them the right of access and easement, which allows them to install sidewalks and have full access for services, utilities etc.

Second, since the sidewalk and the area below is considered city property, the city should maintain it and clean it. Already bylaws have been passed which require



property owners to maintain these areas. Even though we don't have full use of the space, we are liable to maintain it.

Third, the new request, to my understanding — unless it's amended the way Ms Janice Atwood said that she will consider taking to the council — will put even more burden on the property owners, whereas the fact remains that the property owners are already paying for the services and not receiving them. We pay full property taxes to the city for these services, and we deserve full service. If anything, the city should be ordered to provide the services for which the taxes are collected, to maintain and clean the driveways, the aprons, the sidewalks etc to fulfil the commitment.

I will have no objection if this amendment is modified to restrict the impact of this request to unoccupied, weakened, abandoned buildings, lots or properties only and also if the city is ordered to clean and maintain the driveway apron portions as well as the sidewalks etc around any property in the city.

I want to thank you all for listening to a humble taxpayer, and I'll be happy to answer any questions. Before I end, I did have a discussion with Ms Janice Atwood and she has agreed that she explained the intent of this law, which will basically authorize the city to pass a bylaw, but before the drafting or the passing of the bylaw, I request this committee to advise the city that they should hold public meetings and get input from the residents before drafting and putting the laws in place, which was not done in this situation.

**The Chair:** Thank you very much, Mr Haqqi. Before we go to questions, I would now ask the parliamentary assistant, municipal affairs, for comments on behalf of the government.

**Mr Shea:** First of all, let me set the record very clear on behalf of Mr Clement. I understand what Mr Haqqi has said, but let me make it very clear that Mr Clement has in fact been drawn to another important meeting of a standing committee, the standing committee on administration of justice, which is dealing with a very urgent matter this morning; difficult for him to be here, as much as he wanted to. In fact, it was for that reason that he asked his colleague to fill in on his behalf. He was not able to leave the other standing committee on that pressing matter. That happens to us all from time to time. As much as he would prefer to be here, Mr Clement had to be at the other place on behalf of the Legislature.

In terms of the bill before us, we are all aware of what's being requested by the city of Brampton. It is not unique. Other municipalities have sought and been granted the same rights. I think of Ottawa-Nepean as a case in point. The ministries have been asked to review this request and as in the past have no objections. While the act itself will go through, as we have said on a number of occasions, some major overhaul over the next year or so, in the meantime, as municipalities come forward, provided what they are asking stays within the general thrust of this bill, there is no objection.

Essentially the municipality may pass bylaws which require property owners to maintain the boulevard portion of any highway, or a driveway apron, and it provides for notice to be given to the owners or occupants. There is provision for the municipality to undertake the work if

the owner or occupant has not complied, for the expenses to be recovered, in like manner, as municipal taxes.

It does not, I emphasize, with the amendments that are placed before us today, transfer the liability from the corporation to the property owner, so the deep pockets continue to be those of the corporation. There are no objections to the passage of this bill.

**Mrs Pupatello:** I understand that amendments are going to be forwarded. To the legal counsel for the city: Does the amendment you're going to ask for today take care of the concern of the gentleman from the city?

**Ms Atwood-Petkovski:** No. The amendments go some distance to addressing Mr Haqqi's concern that this doesn't include responsibility for the sidewalk or the curb, so the sidewalk and curb are specifically exempted through those amendments, but Mr Haqqi has a further concern with respect to the application of a bylaw to all residential property. The intent of council was to have private legislation that would apply throughout the city and not simply be targeted to industrial or commercial areas. It may well be that the actual bylaw that goes into place will carve out an exemption for fully built-out residential areas, but there are a number of undeveloped areas.

**Mrs Pupatello:** That would be determined by your city council once you have the authority, with the passage of this bill, to go forward and create the bylaw you'd like to bring forward in the city.

**Ms Atwood-Petkovski:** Exactly.

**Mrs Pupatello:** Just for an explanation: I'm cutting my grass, and about three feet up my lawn is where the city property begins. I would continue to cut my grass the whole way. Some people don't cut their grass at all, including the city portion. So the problem is that you have people not taking care of their property. The majority, the lion's share of people cut the grass and maintain it appropriately. Your city councillors feel they need a way to get at those who just aren't, and it's interfering with neighbouring properties.

What drove this bill? I see some articles. Is it the naturalists versus the parkette style, or what?

**Ms Atwood-Petkovski:** This bill would not address the problem of the naturalists, if that is perceived as a problem by council. There was a problem some years ago with not so much naturalists as a neglectful approach to property maintenance with respect to grass growing. It occurs particularly in a place like Brampton. We have a number of undeveloped or only partially developed areas, and they become a problem.

We already have private legislation to deal with that requiring owners to maintain their grass once it gets to I believe 20 centimetres. Then there's a notice the municipality has to give those owners that they're required to cut it or the city will come in and cut it. This doesn't deal with, as you described your property, that three-foot portion down beside the roadway, which actually belongs to the municipality. That's the problem, not particularly in the residential areas, although it may come up from time to time. This is primarily aimed at those vast stretches of undeveloped land that already may be designated as residential and zoned under the planning process but simply aren't built out.



What happens is that you get developers who, as they know and once they receive notice that they're required to go in and cut their property, cut the middle portion and won't cut the abutting portion that belongs to the municipality. It's sort of a thumbing-their-nose approach.

**1050**

**Mrs Pupatello:** It just becomes difficult to make it look lucrative to future development, really.

**Ms Atwood-Petkovski:** It's to try to keep it attractive for those who have already gone in as well. Many businesses establish in areas just on the cusp of a boom, for example, and the area is not fully built out, but those already in there are paying their taxes and have a right to an appropriately maintained area.

**Mrs Pupatello:** I think Brampton is trying to rival the town of LaSalle, where I come from, for fastest housing starts. Brampton is certainly growing at fast pace.

I have a question for the assistant to the minister. This committee has precedence on this issue. Tell me, in brief, the outcome. We've had this discussion before, probably eight months ago.

**Mr Shea:** They've all been approved, every application that's come forward, unless there's been some peculiarity with the request. Because there have been a number of them over the last few years, and many of us who have served on municipal councils know we've probably been authors of one or another, this is going to be part of the municipal reform that's taking place, since we would expect that as the new act comes forward they'll be embraced in it, which will preclude individual applications that have to come forward as they come forward now. This is the only way a municipality can advance this cause.

**Mr O'Toole:** I think we're all suffering from the same thing. Having served on local council for a few years, I'm quite familiar with the problems attendant in this, but the current language in clause 1(a) is very inclusive. It says that "any designated class of building," including property, and it's broad-reaching. I know this is not the bylaw, but it could be interpreted as doing the cement and paving work — very inclusive. I suspect that gives you more flexibility as you draft your own bylaw. Is that the intent for the general nature of this? I can understand why Mr Haqqi is kind of — maybe he's going to have to maintain the concrete sidewalk to certain specifications and standards. If those amendments address that, it's important.

I think it's very poorly written, personally. I'm not trying to be smart or deliberate. If this has been done many times before, I have not been part of it. I have also been part of the public meeting process of trying to draft a bylaw: vacant properties, who does it, who pays, whether it's weeds or whether it's snow or whether it's deterioration of the surface, especially in commercial areas where there's a multiple use of property, where there's one owner and several hundred tenants, and "Good luck," because it's city property and there's road maintenance work, road works that are required.

**The Chair:** Did you wish a comment from the applicant?

**Mr O'Toole:** A comment. The general nature of the wording is very permissive. Perhaps you could respond to that.

**Ms Atwood-Petkovski:** I would have to agree with you that Mr Haqqi's concern was well founded, and the Minister of Municipal Affairs shared that concern. The amendment, as proposed in section 1.1 goes, I believe, quite a distance to rectifying that.

**Mr O'Toole:** Actually, it's no good either, in my view. If you look at section 1.1, the bylaw does not apply to sidewalks, curbs, gutters. The whole issue is that the property owner should be cleaning the sidewalk. That's the way it's going, and to exempt it now I think is rather restrictive. It's gone too far. The property owner should clean the sidewalk. That's the way it's going across the province.

**Ms Atwood-Petkovski:** There already is a Municipal Act provision that enables the municipality to pass a bylaw requiring snow removal, so that's not an issue. In terms of other maintenance, there is no attempt, at least in Brampton, to thrust off that responsibility for the actual maintenance of the concrete. I think it's a valid point that it was a little too far-reaching the way it was, but I believe that the amendment answers that concern.

**Mr O'Toole:** So this amendment of section 1.1 deals specifically with the concrete work? It's not the cleaning of the sidewalk?

**Ms Atwood-Petkovski:** Right. The section 1.1 amendment is to clarify and in a sense restrict the municipality if it wanted to require abutting owners to maintain the municipality's curb and sidewalk, which is the municipality's sidewalk. There's no intention to do that. Probably one of the difficulties with drafting, and I certainly don't have the expertise of your legislative counsel in drafting, is that you know the target you want to hit and you may forget that you're going to hit a few other things on the way. I think it's a learned skill, that sometimes we just don't have the experience that your own legislative staff have.

**Mr O'Toole:** Without going into great detail, the preamble of the parliamentary assistant led me to believe this was rather routine, rather formal. If it's been done successfully, criticized and resulted in a tight form for a private member's bill, why don't we just copy it and change it from "Nepean" to "Brampton"? Where the wording says "including any paved portions," that's very specific, permissive language. If you wanted to exclude it, why did you include it? Anyway, we're not drafting it here and I'm certainly not the one to do it.

**The Chair:** I might mention we will have an opportunity to debate the amendments if they are presented.

**Mr O'Toole:** I wasn't addressing them. You brought them up, I think, or the parliamentary assistant brought them up.

**The Chair:** Is there a comment from our parliamentary assistant?

**Mr Shea:** Absolutely. Mrs Pupatello refers to one of the concerns that municipalities are dealing with, whether it's noxious weeds or the visual of grass and so forth on the property line. This bill also allows the municipality to take action where an owner is not maintaining their driveway apron. That would seem to be reasonable if they are required to cut down the grass and do everything else, but if they leave the apron — that is their responsibility — in a state of complete disrepair.



The bill before us now is probably defining it in a more precise fashion. Perhaps other bills have done it, but Brampton may very well have some unique circumstances that drive the wording in a special way. You'll note that the amendment does not allow the municipality to load on the cost that rightfully should be borne by the municipality. That includes sidewalks, curbs and so forth. That is the municipal responsibility to maintain, and the amendment is placed before us now to make sure that's very clear. But in terms of the driveway portion, which is subject to the owner's responsibility not only to construct but maintain, it is still part of Brampton's intention to include that in the bill.

Other than that we have, as a committee here during this Parliament, passed a bill or two along the same line.

**The Chair:** Mr Haqqi, did you have a comment to Mr O'Toole?

**Mr Haqqi:** I have a comment to both the parliamentary assistant and Mr O'Toole. I want to thank both of you, but one of the issues that people like me are trying to bring forward, and we need your help — it's all very nice to put wording giving wide power — is that the apron portion of my driveway has been damaged more than once by various subcontractors on behalf of the city. They don't finish the work and they disappear and I'm left holding the bag. I can't find anybody in the city to do it. I have the same problem at the back of my house. I've written a letter, the inspectors have come, agreed with it, then the file just disappears. We are saying, give us a break, please. Make somebody responsible. We are paying taxes. Make them do the work for it.

1100

**Mr Sergio:** I'm just trying to clarify exactly what the clause and the request really say in here, and I can appreciate the concern of Mr Haqqi.

First of all, to have any agency carry out any work on the boulevard portion, they would have to seek the municipality's approval, if it's cable, hydro, gas, whatever, and if they leave the site messy or unfinished, the municipality usually goes after those agencies. If it's the public works themselves or whatever, just call your local councillor and I'm sure they will take care of those things. Well, whether or not they do is another story, but that's the avenue you would have.

With respect to the language of the clause, and I'm seeking the assistance of the solicitor for clarification, I think when we say "including any paved portion which may form part of a driveway," this excludes the balance of the boulevard left or right or north or south of a particular driveway. It is the norm that the boulevard portion, which may be interlocking or any other form, would have been done by the home owner himself or herself. That is strictly that portion. Sometimes you have a sidewalk and sometimes you don't.

It's the portion between the sidewalk and the curb that is the skirt or part of the boulevard that is to be maintained by the home owner or tenant. It's their responsibility. That's their driveway. It is city property, but you have to maintain it. I don't think there is anything wrong with the wording as it is in here. I don't think this includes any portion of the boulevard other than the portion flowing from the rest of the driveway.

I think it's clear enough but it's a bit confusing, but I don't have a problem with it, really.

**Mr Trevor Pettit (Hamilton Mountain):** How do you define what "proper" maintenance is? In other words, how long can you let the grass grow before it's improper? On top of that, if you've got a city or regional truck, say, cleaning snow and they're throwing salt and this and that, who pays for resodding or any additional seeding come the spring? Is that all going to be the responsibility of the home owner? Or does it have to be grass? Can you put in tomato plants if you want? What's proper maintenance?

**Ms Atwood-Petkovski:** Let me address those questions.

**Mr Pettit:** By the way, there are environmentalists who would probably suggest that a garden is far better than grass. I don't see that defined in there whatsoever.

**Ms Atwood-Petkovski:** "Maintenance" is defined to some extent in the property standards bylaw, not in this legislation.

**Mr Pettit:** Does it not need to be defined in this legislation?

**Ms Atwood-Petkovski:** It's not my opinion that it needs to be defined in this legislation.

**Mr Pettit:** What happens when you get into a situation where one family decides to put down interlocking stone and the next one says sod and the next one has tomato plants? Does there not have to be some consistency there? Does it not have to be further defined as to what's adequate or proper maintenance here, what's allowed and what's not allowed? Are we going to be bickering over the height of the grass?

**Ms Atwood-Petkovski:** The height of the grass is already defined elsewhere. What constitutes maintenance in terms of the height of the grass is already determined in private legislation that the city of Brampton obtained with respect to grass cutting, and that's 20 centimetres. Otherwise maintenance generally of properties in the city of Brampton is identified as defined in the property standards bylaw. Here again, the fault is in knowing what the target is that we want to deal with. It didn't appear necessary, and looking at some other similar legislation, although there isn't anything with respect specifically to driveway aprons that I've seen, the language does follow along the lines of similar legislation.

With respect to whether the municipality requires the home owner to resod if there's salt damage certainly is a practice. The city of Brampton does spend some resources cleaning up where there are problems with inadvertent accidents or haphazards or whatever that occur as a result of snowplowing — for example, in the more rural areas sometimes the mailboxes get dinged by the snowplow — and we do deal with those situations as a matter of practice. It's just a matter of good business practice to take care of the situations we've given rise to.

With respect to requiring home owners to resod because of salt damage, there aren't any of those situations that have come to my attention, but it would be generally the property owners' responsibility to maintain their property.

**Mr Pettit:** Can I put interlocking stone? Can I put hot pepper plants? Or does it have to be grass?



**Ms Atwood-Petkovski:** This private legislation really doesn't attempt to identify the nature of what the pavement consists of, and I don't think it's necessary in this private legislation to identify that. This is just talking about maintaining what exists. In other words, if I can turn that around, if you already have a paved driveway — if, for example, you have a commercial property in downtown Brampton and there are a number of complaints arising as a result of potholes, I don't think there would be any attempt to require you to do anything other than fill the potholes. That's the gist of the legislation.

**Mr Pettit:** But I'm talking about the boulevard section. You come down, there's your grass, there's the sidewalk, now you have the boulevard running along. Can I put tomato plants in there or do I have to leave it as grass? There's nothing that says how I properly maintain that.

**Ms Atwood-Petkovski:** That's right, and you could put tomato plants in if you want to have tomato plants at the front of your property. There are certainly people who put plantings at the front of their property on the driveway apron.

**Mr Sergio:** Not on the boulevard, not to that extent.

**Ms Atwood-Petkovski:** There are certainly people who put plantings on their boulevard. They put their hedges right down on the boulevard or they put little junipers right on the boulevard. The only big concern we have in that area is when people put those huge boulders on the boulevard and it blocks somebody's view. Then we have to step in and say: "That's our property and it's blocking the traffic sight line. You'll have to move it." We don't legislate good taste.

**The Chair:** I have a final question from Mr Grimmett.

**Mr Grimmett:** Most of my questions have been answered. I'd like to make a comment to the parliamentary assistant. It's great that we're going to change the Municipal Act and the other legislation. I don't think these kinds of discussions should be taking place in a committee of the Legislature because most of the issues we're discussing today are very local.

I did want to ask counsel for the city, are you including the handwritten portions of the amendments in what you intend to move?

**Ms Atwood-Petkovski:** Yes.

**Mr Grimmett:** In my copy, I can't even read it.

**The Chair:** When we have a motion, I will ask the person making the motion to read out the amendment if it's unclear.

Seeing no further questions, are members of the committee ready to vote? We're voting on Bill Pr31, An Act respecting the City of Brampton sponsored by MPP John Hastings.

1110

**Mr Bruce Smith (Middlesex):** I move that clauses 1(a) and (b) of the bill be struck out and the following substituted:

"(a) requiring the owners or occupants of any designated class of building or property in the municipality or any designated area in it to maintain the grassy boulevard portion of any highway or part of a highway abutting the building or property;

"(b) requiring the owners or occupants of any designated class of building or property in the municipality or

any designated area in it to maintain the paved portion that may form part of a driveway apron in front of, alongside or at the rear of the building or property;

"(c) providing for the maintenance of the grassy boulevard portion described in clause (a), at the expense of the owners, and for collecting or recovering the expenses incurred in so doing in any manner including in like manner as municipal taxes."

**The Chair:** Is everyone clear on the wording as read out? The motion deletes several clauses, with the addition of two sections, is that correct?

**Mr Smith:** It effectively strikes out clause (a) and (b) and replaces it with the three clauses that I've just read into the record.

**The Chair:** Are there any comments on this motion? Shall this motion carry? Carried.

We can now vote on section 1. Shall section 1, as amended, carry? Carried.

Now I would entertain further motions.

**Mr Smith:** I move that the bill be amended by adding the following section:

"Bylaw does not apply to sidewalks, curbs, gutters

"1.1 A bylaw passed under section 1 does not apply to,

"(a) a sidewalk; or

"(b) a curb or gutter, made of paving, stone, concrete or brick, that is not part of a driveway apron described in clause 1(b)."

**Mr O'Toole:** I just have a question, perhaps to the solicitor. What do you intend to achieve by this section 1.1?

**Ms Atwood-Petkovski:** Section 1.1 clarifies that even though the sidewalk or curb portion of the road would otherwise potentially fall into that definition of driveway apron, this clarifies that it is not the case.

**Mr O'Toole:** If we were talking about snow removal, would the owner, occupant or taxpayer on that property be required to clean the sidewalks and/or the apron, or have they now been exempted?

**Ms Atwood-Petkovski:** The bylaw which requires snow removal is a separate bylaw under the authority in the Municipal Act which already exists.

**Mr O'Toole:** So it's really talking about the maintenance.

**Ms Atwood-Petkovski:** Yes.

**Mr O'Toole:** Very good. It's just not clear, really, in this thing here.

**The Chair:** Thank you for that discussion.

We have a motion to add section 1.1 to the bill. Shall that motion carry? Carried.

Are there any further motions for amendment?

**Mr Smith:** Yes, Chair. I move that the bill be amended by adding the following section:

"Liability

"1.2 No person other than the corporation shall be liable for damages sustained by any person because of the failure of an owner or occupant to maintain the grassy boulevard portion or driveway apron portion of a highway or part of a highway as required by a bylaw passed under section 1."

**The Chair:** Shall this motion to amend the bill by adding section 1.2 carry? Carried.

Any further amendments?



**Mr O'Toole:** I just want to make one more comment. I'm not trying to be critical, but for the sake of me learning — this is the reason for extending this; we could be gone to lunch. In the preamble it says "maintaining the boulevard portion of any highway." For my simple mind, I'd like to define the word "maintaining." "Maintaining" is to make reference to property standards that exist and may not be in conformance with other municipal things; it makes reference to snow removal, a bylaw that exists. To me, maintaining means all of the above, but this to me is very permissive.

The preamble says "maintaining." We've tried to amend it, but you don't draft definitions so that you have to amend them. We've spent an unnecessary amount of time because there wasn't enough time spent before it came here. That's the point I'm making. I'm not trying to be belligerent or anything. I would ask perhaps other members, Mr Martin, for example, what does "maintain" mean? We've spent a lot of committee time that we could have avoided. I read this stuff and I say, this is a law, it's a provincial thing we're doing here. You know what I'm saying? You're thinking of all you know about Brampton and its specific little idiosyncracies: bylaws, local standards and stuff. That's the only reason I'm making any fuss about it at all. Otherwise it doesn't even need to come here.

**Ms Atwood-Petkovski:** May I just respond to that — or should I respond to that? Would I be better not to respond?

**The Chair:** You don't need to, but please go ahead if you wish.

**Ms Atwood-Petkovski:** I think that you express a valid concern, not with respect to defining "maintain" in this private legislation, because I don't think that's appropriate in this private legislation, if I may be so bold. But I think the concern you express results from the fact that the legislative authority for municipalities to do things has been so piecemeal. Anyone who is familiar with the Municipal Act will recognize that the amendments through that legislation have been piecemeal, ad hoc, and not really coherent in the sense that there's one area where you can look and say, "Here's our authority to do this." There are bits in the Planning Act, there are bits in the Municipal Act, and there are lots of pieces of legislation that are private legislation like this one that are little Band-Aids holding things together at the municipal level. Hopefully, the new legislation will be an answer to a lot of that.

**Mr O'Toole:** The parliamentary assistant has assured us that the Municipal Act will be amended, and I have no doubt about his abilities.

**The Chair:** I wish to continue with the clause-by-clause.

Following tradition, barring any motions, shall sections 2, 3 and 4 carry? Carried.

With respect to the preamble, I understand there is a motion being prepared. Oh, here it is now; it has arrived. I would ask that some of Mr O'Toole's advice would perhaps go to our clerk and that future applicants to this committee could be forewarned.

Mr Smith, you wish to move the amendment?

**Mr Smith:** Certainly, and I trust that counsel for the applicants has had an opportunity to review it.

I move that the preamble of the bill be amended by striking out "the boulevard portion of any highway" in the fourth and fifth lines and substituting "the grassy boulevard portion of any highway and the paved portion of a driveway apron."

I would defer to the parliamentary assistant or others if there are any questions for clarification. I think it's reflective of the discussion we've had thus far with respect to the bill.

**The Chair:** Shall this amendment carry? Carried.

Shall the preamble, as amended, carry? Carried.

Does this affect the title? I'm thinking of the last bill. No?

Shall the title carry? Carried.

Shall the bill, as amended, carry?

**Mr O'Toole:** Except for one thing: Perhaps rather than Mr Clement's it should be Mr Hastings's.

**The Chair:** I've just consulted with both the clerk and legal counsel and Mr Clement remains the sponsor of this bill.

**Mr Hastings:** That's the way I would have wanted it.

**Mr Shea:** Chairman, before you adjourn, could I just ensure that we understand that Mr Clement wanted to be here but could not be here. I must say that I personally appreciate Mr Hastings assuming that responsibility on his behalf.

**Mr Sergio:** He did a good job.

**Mr Shea:** He was well briefed by Mr Clement before he came in.

**The Chair:** I wish to go back to the agenda.

Shall the bill, as amended, carry? Carried.

Shall I report the bill to the House? The bill will be reported.

I wish to thank the applicants and interested parties and declare this order of business closed and declare this committee adjourned.

*The committee adjourned at 1122.*











## CONTENTS

Wednesday 11 December 1996

<b>Huronias Airport Commission Act, 1996</b> , Bill Pr68, <i>Mr Grimmett</i> . . . . .	T-187
Mr Bill Grimmett	
Mr Gary French	
<b>Windsor Utilities Commission Act, 1996</b> , Bill Pr76, <i>Mrs Papatello</i> . . . . .	T-188
Mrs Sandra Papatello	
Mr Kent Edwards	
Mr Ray Penfold	
<b>City of Brampton Act, 1996</b> , Bill Pr31, <i>Mr Clement</i> . . . . .	T-190
Mr John Hastings	
Ms Janice Atwood-Petkovski	
Mr Sal Haqqi	

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    Mr Frank Sheehan (Lincoln PC)  
\*Mr Bruce Smith (Middlesex PC)

*\*In attendance / présents*

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    for Mr Sheehan

**Clerk / Greffier:** Mr Tom Prins

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T-18

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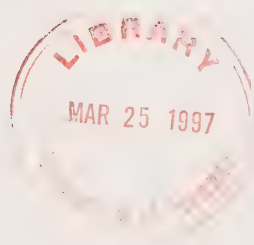
Wednesday 26 February 1997

# Journal des débats (Hansard)

Mercredi 26 février 1997

Standing committee on  
regulations and private bills

Comité permanent des  
règlements et des projets  
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STANDING COMMITTEE ON  
REGULATIONS AND PRIVATE BILLS

Wednesday 26 February 1997

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO  
COMITÉ PERMANENT DES RÈGLEMENTS  
ET DES PROJETS DE LOI PRIVÉS

Mercredi 26 février 1997

*The committee met at 1009 in room 228.*

**The Chair (Mr Toby Barrett):** Good morning all, and welcome to this regular meeting of the standing committee on regulations and private bills for Wednesday, 26 February.

We have three main agenda items today: some organizational discussions, Bill Pr73 and Bill Pr63. Going back to the issue of organization, I understand there will be a change in the membership of the subcommittee. At this point, I would entertain a motion.

**Mr Bruce Smith (Middlesex):** I move that Mr Gerretsen replace Ms Pupatello and that Mr Gilchrist replace Mr Shea in the membership of the subcommittee on committee business.

**The Chair:** All in favour of that motion? Carried.  
That concludes that order of business.

CITY OF OTTAWA ACT, 1996

Consideration of Bill Pr73, An Act respecting the City of Ottawa.

**The Chair:** Our second order of business will be Bill Pr73, An Act respecting the City of Ottawa. The sponsor is Mr Grandmaître, MPP. I understand Mr Cleary will be standing in for Mr Grandmaître. I would ask our sponsor and the applicants if they would please approach the witness table. Mr Cleary, if you wish to make a few very brief opening remarks, then we would ask the applicants if they would also introduce themselves and continue with their presentation.

**Mr John C. Cleary (Cornwall):** Good morning, Mr Chairman, members of the committee and guests. I'm here today on behalf of my colleague Ben Grandmaître, MPP for Ottawa East, to present Bill Pr73. Ben sends his regrets. He's unable to be here this morning on account of an unexpected call back to the riding, the result of the restructuring commission on Montfort Hospital in Ottawa, a very surprising and disappointing decision to Ben as well as the other MPPs from Ottawa, Dalton McGuinty, Gilles Morin and Richard Patten. I know that many of the constituents in the Ottawa area are very upset with this announcement and already my office has received telephone calls and e-mails about this decision. But that's not why we're here today.

**Mr Garry J. Guzzo (Ottawa-Rideau):** They wanted the Civic closed, right?

*Interjections.*

**The Chair:** I wish to ask for order.

**Mr Cleary:** I'll try to get off the subject, because I know it's bothering a few of the members here.

I have been asked to present Bill Pr73 on behalf of the corporation of the city of Ottawa. The purpose of the bill

is to enable the city of Ottawa to enter into and perform agreements with the federal government in respect of federal parking regulations and tickets.

With me here today to go over the contents and answer any questions the committee may have are Edythe Dronshek, legal counsel, and Ray Jacobsen, licensing, transportation and parking branch. I will now turn the table over to Edythe and Ray.

**Mrs Edythe Dronshek:** The purpose of this application is to provide the corporation of the city of Ottawa with the specific enabling authority to enter into and perform agreements with the federal government in respect of federal parking regulations and parking tickets. The agreements would be for the enforcement of regulations made under an act of Canada with respect to parking contraventions on federal property located in Ontario, including the issuing of tickets for vehicles illegally parked, the prosecutions resulting from the issuing of parking tickets and the collection of fines and court costs resulting therefrom and the management of parking facilities on property of the federal crown.

At the request of the federal government, the corporation has presented a proposal representing an expression of interest to provide processing, collection and customer response services with respect to parking tickets issued on federal property located in Ontario. In addition, the corporation has expertise in the field of management of parking facilities, parking strategies and enforcement. Thus, the authority respecting parking enforcement and parking management has been included in the application, so that all parking-related issues are authorized at this time so that the corporation and the federal government could pursue the purchase of these services, if desired.

Recent amendments to the federal Contraventions Act provide the federal government with the authority to enter into such arrangements with municipalities and to incorporate by reference the necessary provisions of the Provincial Offences Act, Ontario, the regulations and rules of court to make the provincial procedures applicable. Thus, it applies the provincial law to all federal offences that are designated as contraventions and utilizes the procedures already in place in Ontario under the Provincial Offences Act. The offences are designated by the contravention regulations and an offence that is designated as a contravention is and remains a federal offence, despite the manner in which it is prosecuted.

The corporation of the city of Ottawa is desirous of entering into this purchase-of-service agreement with the federal government and has the expertise obtained from dealing with its enforcement of municipal parking regulations in Ottawa.



There is no provision in the Municipal Act which would authorize the city to enter into parking-service-related agreements with the federal government, whether the agreements are for processing administratively the federal offences and tickets, enforcement of parking regulations or management of parking facilities. In addition, there is no authority for the corporation to deal with matters that go beyond its municipal boundaries. Thus, the corporation respectfully requests the committee to approve the application as presented.

Mr Jacobsen and I are willing to answer any questions the committee may have.

**The Chair:** Thank you, Mrs Dronshek. Mr Jacobsen, do you have any further comments?

**Mr Ray Jacobsen:** No, I'll just answer any questions with respect to the actual processing of tickets, should you have any.

**The Chair:** Thank you, Mr Jacobsen. Are there any other interested parties who wish to speak to this bill? Before we go to questions from the committee, at this time we ask the parliamentary assistant for municipal affairs for comments. I am very pleased that MPP Derwyn Shea has agreed to sit in for this session.

**Mr Gilles Bisson (Cochrane South):** It's his job.

**The Chair:** Mr Shea is leaving this committee.

**Mr Derwyn Shea (High Park-Swansea):** Am I leaving the committee?

**Mr Bisson:** I always quite appreciated having you here. You were an ally —

**Mr Shea:** I appreciate that, Gilles, but having moved to another ministry — I appreciate that testimony. I hope that was on Hansard. I need that —

**Mr Bisson:** I think we need to clarify. More times than not, you weren't able to whip your government members into line. I had to help you.

**The Chair:** Mr Shea, anything to —

**Mr Shea:** Thank you, Mr Chairman. I think most of us who have had municipal experience understand exactly what is being proposed here and the reasonableness of the request. The proposed bill enables the city of Ottawa to make agreements with the federal government so that the city can enforce parking regulations and prosecute offences and manage parking facilities on federal land, including those outside the city of Ottawa. It's a recognition that in many ways the city has the administrative experience and the infrastructure for enforcement that the federal government does not have and it seems quite appropriate that we give approval to the bill.

I will point out to the committee for its guidance that no objections from any ministries have been received to this bill.

**Mr Bisson:** Thank you very much, Mr Shea. It's really a sad moment in this committee's history to see you leave. I've really appreciated having you as an ally to try to bring some common sense to your caucus on a number of issues that we have had to deal with on this committee. I hope your successor is, I won't say "enlightened," but — there you go. He's getting the idea. Let Hansard show he's hanging himself with his tie.

I've got a couple of specific questions, I guess. In the transferring of this authority on to the municipalities, is there any agreement between the federal government and

the municipality about revenue-sharing, or do you keep all of the revenue from the tickets?

**Mr Jacobsen:** There will be revenue-sharing. I shouldn't call it "revenue-sharing." They will be paying us a certain per-ticket fee for processing all tickets.

**Mr Bisson:** Rather than having the RCMP do it, they're asking your police to do it.

**Mrs Dronshek:** If I may say so, the federal government isn't really enforcing very much and when they do, at this point they've been processing it as a summary conviction offence rather than the way the province has, the two-part tickets, so in fact their success rate has not been overly good.

1020

**Mr Bisson:** But if I understand it correctly, it's the RCMP now who are giving —

**Mrs Dronshek:** There are various — there's the RCMP, there's staff at federal properties who issue all kinds of —

**Mr Bisson:** You indicated there's an operating agreement of some type.

**Mrs Dronshek:** There will be once this authority is obtained.

**Mr Bisson:** The police of the city of Ottawa will be —

**Mrs Dronshek:** No, we do it ourselves. The police issue parking tickets within the city of Ottawa. Perhaps Ray can explain better, but we have licensing enforcement staff.

**Mr Jacobsen:** The police issue very few parking tickets. The majority of parking tickets the city of Ottawa issues are issued by the parking control officers. We have an administrative component that looks after the processing and administration of that and we're just going to take this particular work from the federal government and add it on to that process.

**Mr Bisson:** What you're doing is getting into an agreement with the federal government that your people will do what the federal government used to do before and was not able to do adequately because of the legislative authority they were under. What kind of percentage are you going to be getting between your people doing it and the feds? What kind of revenue-sharing agreement do you contemplate?

**Mr Jacobsen:** We have not entered into a formal agreement yet, so it would be perhaps premature to comment on that. However, we have had indications that we will certainly make a profit on this.

**Mr Bisson:** All right. The other thing is that with regard to the lands you will actually now have authority to go on to, is it all land that is controlled by the federal government?

**Mr Jacobsen:** We won't be writing tickets for them. They'll still be responsible for writing tickets on all the federal properties within the province that they currently are writing tickets on. Once the ticket is written, though, all the tickets will be shipped to us and we will take over from there, doing the processing and arranging for prosecution and things like that.

**Mr Bisson:** So your people are actually not going to give the tickets.

**Mr Jacobsen:** No.

**Mr Bisson:** Okay, I misunderstood. I'm glad that you clarified that. Is anybody opposed to this process? Has anybody come to the city of Ottawa and said, "We don't think this is a good idea?"

**Mr Jacobsen:** We haven't had any objections. We raised the matter before our municipal council and it was widely covered in the press. We have not had a single objection from anybody.

**Mr Bisson:** I'm going to have to go back to the beginning again because I thought your people would be actually going out and issuing the tickets. Can you explain?

**Mrs Dronshek:** The authority does go that far, but at this point the —

**Mr Bisson:** Yes, because when I read the legislation, it gives you the right to do that.

**Mrs Dronshek:** Yes, it does.

**Mr Bisson:** So the federal people, either the RCMP or whoever it might be, will still go out and issue tickets.

**Mr Jacobsen:** That's right.

**Mr Bisson:** Why then do they need to give it to you? If you can explain that more clearly for me, why do you need to do that? Why do you need to do the processing?

**Mr Jacobsen:** They don't have a processing system set up that works well for them and we do.

**Mr Bisson:** So rather than them creating another —

**Mr Guzzo:** Next to the mob, they're the best.

**Mr Bisson:** Give it to the mob?

**Mr Guzzo:** No, I said next to the mob, they're the best.

**Mr Bisson:** Let the record show the good judge made that comment.

The primary reason for this is in order for you guys to process the tickets, not to collect them. Do you envision having your people going out and issuing tickets in the future?

**Mr Jacobsen:** If the federal government would want us to do that, yes, we'd be amenable to discussing that particular type of arrangement. We have not had any discussions of that sort yet.

**Mr Bisson:** The only problem with that is, if we give you the authority to do that under this legislation, there is no public process afterwards if the feds decide they're going to hand this off to you. Right? You'd have the authority to do it —

**Mrs Dronshek:** That was included in the original public process we went through.

**Mr Bisson:** I'm going to come back to this in a minute. I'll let somebody else go. I just want to come back to it. Do you want to give somebody else a chance for now?

**The Chair:** I only have one more question indicated. Mr Ruprecht?

**Mr Tony Ruprecht (Parkdale):** I wanted to use this occasion to come back to one of the points that was discussed at this committee, and that was that the Red Tape Review Commission had gone through, I would assume, all government structures and decided where money could be saved. All of us here who have some municipal experience would know that the appearance of two people from the city of Ottawa and our sitting here costs us thousands of dollars.

You've come through the blue book and the Common Sense Revolution. I'm wondering, Mr Chair, whether this may not be a totally correct example of how to save money. It certainly should be looked at. With legislation of this type that seems to be fairly straightforward, fairly simple, and where there are precedents in other municipalities, this could be perhaps the one example where we could save some money. This is non-productive time, for them to come here when there could be other ways that could be arranged, through whatever other mechanisms we could come up with, even through this committee by other means, perhaps electronic means, without people having to come here, waste a whole day, spend all that money, and then there's our time and all the recording devices in place. I'm just wondering whether this would be one of the ways that we could overcome some of the problems we discussed earlier.

This leads me to my final point. We have raised this. Members of the government have, I certainly have on our side, and the NDP — I'm not sure whether you were here before on this issue, but certainly they have agreed with it as well. At this stage maybe we should wait until this is over, but where are we at in this business of trying to save taxpayers' money, when one of the major pillars of the Common Sense Revolution has been to try to do just that? I just wanted to put that on the record.

**The Chair:** Mr Bisson, did you want to comment on the Ottawa bill?

**Mr Bisson:** I'll comment on that later; I want to speak to the Ottawa bill.

**The Chair:** Mr Ruprecht, we leave the ball in your court, if you wish to entertain a motion at some point or suggest this for the subcommittee of the standing committee, if you were looking at changing the structure of how we do business here. Could I leave that with you?

**Mr Bisson:** To be helpful, maybe we can deal with that issue after we've dealt with our two presenters here this morning. They are here on limited time. It's something the committee can deal with on its own.

**The Chair:** If you wish to have that dealt with by the subcommittee, there's a structure there to take a look at how we do business of the standing committee.

**Mr Ruprecht:** Somehow it should be taken up. You keep raising it on this side and we keep raising it. I'm looking at Mr Shea's comments as well, which really triggered my comments in terms of having municipal experience and knowing there are precedents for this. If there were no precedents, there would be a different dynamic here. But since there are precedents and since this could be handled in a different way, I thought to make these comments to at least have the Chair's agreement that somehow we could look at this again, if it hasn't already been looked at. I thought that we had been looking at it and that by now you'd have some process in place where we could actually go through it and save some money.

**The Chair:** Mr Shea has a comment on this.

**Mr Shea:** I think we should pick this up after we have had the deputants and dealt with this bill. We'll pick it up at the end. Probably it's wise to send this on to the subcommittee. Chairman, I raised this at the very beginning of this term, that I think there are other ways for us



to improve the efficiencies of our committee functions: real-time video; a lot of ways. We can come back and visit that when we're not taking up the time of the deputants. Mr Gerretsen wants to get on the question paper, so I'll defer to him.

**The Chair:** I also feel this is something that could be discussed by our subcommittee.

Following rotation, I now go to Mr Bisson and then Mr Gerretsen.

1030

**Mr Bisson:** I'll tell you where I'm coming from on this issue. You would know that as we speak the federal government is divesting the RCMP of the responsibility of policing our federal airports, at least in Ottawa, if not across the country. They're divesting them of a number of functions they used to do. My concern is that I want some assurance that if we're going to give you this legislative authority, it's not with the intention of in the end taking away opportunities the RCMP would have to place some of their officers who will be out of work because of what's going on with the restructuring within the RCMP. Do you want me to explain that further, just so you're clear where I'm coming from?

**Mrs Dronshek:** Yes.

**Mr Bisson:** The federal government has gone to the RCMP and said, "You're no longer going to be responsible for policing in the airports." I met with a group of RCMP officers and staff, I guess it was last Friday when I was in Ottawa, and that was one of the issues they raised with me, that they're really worried about what this is going to mean to all the RCMP officers across the nation once you take away those responsibilities. That's 10%, 15%, 20% of the manpower of the RCMP.

One of the things they talked about was that in doing this, they need to make sure that they try through attrition to deal with some of the displacement that will happen with that; that they try to find other things for the RCMP officers to do rather than putting them out the door. In this day and age, where you've got the federal government downsizing massively, you've got the provincial government downsizing massively, and the municipalities will shortly, with the downloading that's coming to you, be downsizing drastically, a lot of people are going to be without work as a result.

My concern specifically for the RCMP is that if you as a city get the authority to do the issuance of the parking tickets, that's work that used to be done by federal employees, namely the RCMP and others. The assurance I'm looking for from you — you said: "All we want to do is process the tickets. We don't want to go out and issue them. We don't want to take that responsibility." Are you able to commit to that today?

**Mrs Dronshek:** The bill does go farther than that. That's all the purchase-of-service agreement is at this point. We don't at this point plan to go any further than the processing, but we wanted all the parking-related issues in there in case. A lot of the properties that have been identified are bases rather than — if you want to explain, Ray, what they've identified as boundaries.

**Mr Jacobsen:** There's a total of 11 different areas within the province that have federal properties — the city of Ottawa is only one — for instance, Trenton,

Kingston, Petawawa. The RCMP, as you know, also enforces moving regulations. We have no interest at all as a city, as part of the control function, of taking over moving regulations at all. We're only interested in parking. To this date, we have not had a single conversation with respect to taking over any kind of enforcement function from the federal government. It's strictly a processing, fee-per-ticket arrangement.

**Mr Bisson:** So you are only going to do the processing. You're not interested and don't entertain getting into discussions of going out and doing the enforcement side of the parking offences.

**Mr Jacobsen:** Not at this time.

**Mr Bisson:** What I'm looking for from you if I'm going to support this is some assurance that that's not going to happen. I'm somewhat concerned about what it means for the federal employees on the other end.

**Mr Jacobsen:** I can't give you that assurance because I simply don't have that information.

**Mr Bisson:** If we were to take that power out, where would you stand? If I were to move a motion to amend the legislation that you don't get the enforcement ability, where would you be then?

**Mrs Dronshek:** It isn't the enforcement ability; it's the ticket issuance ability. We'd be in a position where we couldn't even give it to a federal office building or deal with parking. Ottawa has streets that are federal and we couldn't even give a parking ticket on a federal street; we'd have to walk by it on our route and do it. That's the situation. But this doesn't deal with any of the moving offences, the traffic offences or any of those violations. It's simply parking tickets.

**Mr Bisson:** I'm talking about parking offences. That's what I'm talking about.

**Mrs Dronshek:** They don't issue very many. Could you give him a volume, Ray?

**Mr Jacobsen:** There's a total of 23,000 tickets issued across the province, roughly, every year. Some 90% of those are in Ottawa. The rest are spread out over the other 10 locations.

**Mrs Dronshek:** That does not include the airport.

**Mr Bisson:** But you're telling me that you're not going to get into the enforcement side of parking offences.

**Mrs Dronshek:** We're saying we haven't been asked to even consider it at this point.

**Mr John Gerretsen (Kingston and The Islands):** The earlier discussion that Mr Ruprecht had about having this kind of matter come before a committee like this reminds me of the first time I visited Queen's Park in the mid-1970s, when I was chairman of our transportation committee in the city of Kingston. We came here on a similar sort of request. At that point in time we wanted to park cars on boulevards, which wasn't allowed, and we were surprised that it needed some sort of provincial consent and change to an act to make it happen. Now here we are 20 years later and I guess these relatively minor problems still come before a committee like this. I certainly concur with the comments made earlier, that the quicker we can deal with these matters and even get them off the books so they're more of a local decision, the better.

Coming back to Mr Bisson's query, I think it's fair to say that probably at some point in the future you will be



involved in the enforcement situation as well. We don't want our RCMP officers to be issuing parking tickets; we want them to fight crime in this country. Parking matters ought to be dealt with by people who have perhaps not as high a salary expectation etc. It's something I totally concur with. Let's face it, sooner or later, you're going to be involved in the enforcement aspect as well, aren't you, issuing the tickets?

**Mr Jacobsen:** I don't know. I can tell you I'm an ex-member of the RCMP and the cost between us and our PCOs is quite significant. The cost between what we pay people and the RCMP is quite significant salary-wise. I really can't answer your question, sir. We have never discussed it. If at some time it came up, we'd have to discuss it at that time.

**Mr Gerretsen:** Do I take it that currently you're not issuing a lot of tickets because you don't have the proper enforcement mechanism under the new Provincial Offences Act to see the tickets through the final result?

**Mr Jacobsen:** We don't issue any tickets on federal property at all, sir, because we do not have the authority to do so. We issue tickets only on municipal property.

**Mr Gerretsen:** No, we're talking about the enforcement, what happens after a ticket is issued. What you currently want to do is that any ticket that's issued by the RCMP on federal property will go through your enforcement operations.

**Mrs Dronshek:** That's right; we'll fold it into our administration system.

**Mr Gerretsen:** Currently, then, whatever administration is being done by the RCMP to process the tickets they're issuing is being done on much more cumbersome and costly basis. Is that correct?

**Mr Jacobsen:** That's what we've been led to believe and that's why they're seeking our assistance.

**Mr Gerretsen:** The other question I have is that I don't quite understand subsection 2(2): "For the purposes of carrying out an agreement entered into under this section, the territorial jurisdiction of the council of the corporation is not confined to the boundaries of the city of Ottawa." Does the City of Ottawa Act have special provisions that allow you to act beyond the boundaries of the city of Ottawa?

**Mrs Dronshek:** Some of the provisions of the Municipal Act do that as well. It is meant to allow us to do the processing of the tickets coming from a place like Petawawa; deal with the customer response service through a 1-800 number; and then if there's a trial, get the documents back to Petawawa, where a federal prosecutor will handle the court placing. But we are very nervous about even processing and dealing with the customer response part of the service without having the authority that says we're not confined within the city of Ottawa.

**Mr Guzzo:** That's the law where you were. You didn't know that, eh?

**Mr Gerretsen:** That's a new one to me and I've been around for a while.

Just so I'm clear — I'm from Kingston and we've got a base there as well — let's say the military police, which is federal property, issue a ticket. You want the authority through the city of Ottawa administration to process that ticket.

**Mr Jacobsen:** That's right.

**Mr Guzzo:** To clarify the point, in the operation you have now in Ottawa, 22 years ago you took away from the city of Ottawa police department the issuance of tickets and turned it over to the parking authority.

**Mrs Dronshek:** Yes.

**Mr Guzzo:** Why did you do that? I know you had an enlightened council of the day and you're probably going to go on at great length about how good that council was. Resist the urge and just —

**Mrs Dronshek:** Absolutely, but it was a cost-saving measure at the time, and the police didn't want to waste their time issuing parking tickets instead of doing moving offences or criminal matters. The police didn't want the administrative process of dealing with something as minor as parking tickets, so the power was given to Ottawa to set up the Green Hornets and set up the administration for that.

In addition, in Ottawa we also have a system in place that's called a deputization program, whereby an owner of a private property can apply, fill out an agreement and obtain authority, and we will appoint the people he names as staff to issue tickets on his property so that they are legitimate tickets and they don't need to call a city of Ottawa staff person to come out to deal with a parking matter on a private property. In fact we have a fair number of situations where this is okay. But we can't even do that for the federal property because there's no authority to deal with the federal government.

1040

**Mr Guzzo:** So 22 years ago the police department and Ottawa said, "We don't want to issue tickets any more; we want to fight crime," and they handed it over and it's a cost-saving arrangement. And here we are today, with the federal government and the RCMP, a trained force that receives much more expensive and longer training than a municipal police force, still trying to preserve the right to issue tickets to keep them busy. They haven't got enough to do. Is that what Mr Bisson was suggesting? I don't know. It's an interesting comment.

The other thing you might just put into the hopper, into Ms Dronshek's explanation of what happens in terms of, say, Petawawa or down at Trenton, is the part about the federal prosecutors, special prosecutors hired by the federal government — no crown attorney in Ontario capable of handling a parking ticket case. They might handle a murder case or a rape case, but not a parking ticket if it's issued on federal ground. Think about that one. Special lawyers on retainer to the federal government — no patronage there.

**Mr Gerretsen:** What have you got against lawyers, anyway?

**Mr Bisson:** Let me ask this question. Of the people who are issuing tickets on behalf of the federal government, is it primarily the RCMP or are there other people who do it? Who is doing it?

**Mr Jacobsen:** There are three different categories. There are the RCMP, who probably issue 85% to 90%, there are the commissionaires, and then there's the national parks police. I'm sorry, it's the military police as well.



**Mr Bisson:** What I'm looking for from you, to be blunt, is some kind of an assurance from the city of Ottawa that if you do end up being approached by the federal government, which I expect you will be because they're downloading as well, you would enter discussions with the federal government that say, "We're prepared to take a look at entering into some sort of agreement that will give an opportunity to those displaced employees of the federal government of coming to do these jobs for the municipality of the city of Ottawa." That's what I'm looking for.

This is not legislation you'd be committing to, but I'm looking for some kind of direction. As it turns out, I met with three or four RCMP people last Friday when I was in Ottawa and the whole issue of what was happening in the RCMP is what was hot on their plate. They were really worried about what this meant to their manpower. When they look at how many officers they've got across the country and look at what's already happened with attrition — there hasn't been a lot of hiring within the RCMP — there's not a lot of room to deal with these displaced officers.

They're saying, here are people who have been with the force for 10, 15, 20 years, who are very well trained, who have given a lot of their time, like other people, to serve the RCMP, who are worried about losing their job.

I'll speak out for them here, because nobody else here, especially the Tory party, is going to mention that. What I'm looking for from the city of Ottawa is not to obstruct you but that you take a look at making sure, for those people who will be displaced by the federal Liberals when all this is downloaded on to you, that there is some sort of attempt to find a place to put these displaced people. Would that be the intention of the city of Ottawa?

**Mr Jacobsen:** If the time ever came when that scenario came to fruition, certainly we'd listen to any proposals put forward to us by the federal government. It should be recognized, however, that we are restricted by a collective agreement. Whenever we have a new job in the city of Ottawa, the process has to recognize that we have a CUPE union and we have to go through the hiring process dictated by a collective agreement with CUPE.

**Mr Bisson:** I know. I don't want to be obstructionist. I understand what you're trying to do here, and there's a logic to what you're trying to do in regard to the agreement that you're getting into process. But I'm nervous about what this means further down the road for a lot of people who work for the federal government, namely, in this case, the RCMP. I'm not satisfied, quite frankly, that there's going to be an attempt at least to find a way of accommodating some of these people who will lose their jobs, and I'm looking for some indication you're going to do that.

I'm afraid, once you leave this committee and you have the authority, there won't be anything on the record and there will be no kind of assurance that the city of Ottawa will say, "Listen, we're prepared, where possible, to deal with some of the displaced employees who will be affected." I understand you've got a collective agreement and you've got to go through that, and I don't suggest for a second that you try to go around that. But if there's an ability to be able to find some sort of an

agreement to do so, that would make me a little bit happier.

**Mr Jacobsen:** I could say that I would make a recommendation to that particular aspect of what you're proposing. However, the decision-makers who decide this are much higher in the corporation than I am.

**Mr Bisson:** I recognize that, and they're good friends of the good Judge Guzzo, and that's the problem I have with it.

**Mr Guzzo:** No self-respecting Mountie wants to be issuing tickets, let me tell you that.

**Mr Bisson:** Listen, there are many police officers across this province who issue parking tickets who are quite capable of doing other things as well. In the city of Timmins we have police officers who issue parking tickets on a fairly regular basis, and I don't see a lot of people complaining about it. I don't suggest that's all they need to do, but that's part of the workload of an RCMP officer in the city of Ottawa. If you take that work away from them, it's going to have an effect on how many RCMP officers we need in the federal capital. All I want is some sort of an assurance that we're able to deal with that or at least look at that when we transfer those services over.

**Mr Guzzo:** The Attorney General can make up some more charges against former prime ministers and occupy lots of their time.

**The Chair:** Before we wrap up questions, Mr Bisson, did you have anything further?

**Mr Bisson:** I have a motion I'd be prepared to push forward, but I don't want to put the motion if the city is telling me that they will recommend to the council that if this does happen, where the RCMP or the federal authorities get into discussions with them to do the enforcement side, this issue is looked at. If you're prepared to do that, I'll support the legislation; if you're not, I'll move a motion.

**Mr Jacobsen:** I can say that I will recommend to the commissioner of engineering and works, who is responsible for licensing, transportation and parking, that should we enter into an agreement or into discussions with the federal government, part of that discussion would include the possibility of looking at the hiring of displaced RCMP members to perform the functions as outlined in the particular bill.

**Mr Bisson:** And the others as well, the other 10% who do it?

**Mr Jacobsen:** Sure.

**Mr Bisson:** The answer is?

**Mr Jacobsen:** Yes, I would also recommend that we consider those.

**Mr Bisson:** On that basis, I will support the legislation.

**The Chair:** Are the members ready to vote? We're voting on Bill Pr73, An Act respecting the City of Ottawa. The sponsor is Mr Grandmaitre.

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall section 4 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Yes.

I wish to thank Mrs Dronshek and Mr Jacobsen. I now declare this order of business closed.

1050

### BANK OF NOVA SCOTIA TRUST COMPANY ACT, 1996

Consideration of Bill Pr63, An Act respecting The Bank of Nova Scotia Trust Company, Montreal Trust Company of Canada and Montreal Trust Company.

**The Chair:** Our next order of business is Bill Pr63, An Act respecting The Bank of Nova Scotia Trust Company, Montreal Trust Company of Canada and Montreal Trust Company. The sponsor is Ms Bassett, and Mr Smith, MPP, is standing in for Ms Bassett. Perhaps before we ask you to commence with your opening remarks, I would ask the clerk of the standing committee for some further information.

**Clerk of the Committee (Mr Tom Prins):** I just want to provide the committee with a brief background of what's happened with this bill. After first reading, it went to the commissioners of estate bills and they produced a report, which I'll read into the record in a minute. In the report, they required a number of amendments to be made if they were to support the bill. If each of these amendments is moved and passed, the bill would proceed through its normal course through the committee and through the House. If any one of these amendments was not passed, pursuant to the standing orders the committee would just cease consideration of this bill.

Let me read the commissioners' report, a letter dated January 21, 1997, to Claude DesRosiers. You should all have a copy of this in front of you as well.

"Report pursuant to section 58 Legislative Assembly Act

"Re: Bill Pr63, An Act respecting The Bank of Nova Scotia Trust Company, Montreal Trust Company of Canada and Montreal Trust Company

"We are of the opinion that the bill in its present form should pass with the amendments set out in the statement attached.

"Dated this 21st day of January, 1997." It's signed by estate bill commissioners John D. Ground and Susan E. Greer. I'll read the statement.

"This act provides for the transfer of the trusteeship and agency business of Montreal Trust Company of Canada and Montreal Trust Company to The Bank of Nova Scotia Trust Company. The Bank of Nova Scotia acquired all the voting shares of Montreal Trustco Inc on April 11, 1994, and thereby acquired all of the shares of Montreal Trust Company of Canada and Montreal Trust Company, each a wholly owned subsidiary of Montreal Trustco Inc. The Bank of Nova Scotia Trust Company, a wholly owned subsidiary of The Bank of Nova Scotia, proposes to acquire the personal trusteeship and personal agency business of both Montreal Trust Company of Canada and Montreal Trust Company. It would be impractical, given the number of trusts and estates comprising the personal trusteeship" —

**Mr Bisson:** Excuse me, was that "impractical" you said?

**Clerk of the Committee:** "It would be impractical, given the number of trusts and estates comprising the personal trusteeship and personal agency business of Montreal Trust Company of Canada and Montreal Trust Company to apply to the Ontario Court (General Division) under section 5 of the Trustee Act to have The Bank of Nova Scotia Trust Company appointed as successor trustee for each trust and estate."

I'll read the recommendations.

Section 3, subsection (1): "We recommend that the word 'natural' in the 10th line of the subsection be deleted as the provision should apply to property held for any person, whether natural or not, or for any purpose."

Section 3, subsection (1): "We recommend that, grammatically, the words, 'every document and trust' in the 12th line of the subsection be replaced with the words 'a document or trust'."

Section 4, subsection (2): "The cross-reference to 'section 1' in the ninth line should be to 'section 2'."

Section 4, subsection (2): "The last phrase of this subsection should be reworded to read 'would have had or been subject to if this act had not been enacted'."

Section 7, subsection (1), item 2: "The word 'applies' in the fourth line of this item should be replaced with the words 'would otherwise apply'."

Section 7, subsection (2): "The introductory clause of this subsection should be reworded to read 'Despite paragraph 2 of subsection (1), this act does apply to'."

Section 7, subsection (2), clause (a): "The word 'for' should be deleted at the beginning of this clause and the word 'and' inserted before the words 'The Bank' in the eighth line."

Section 7, subsection (2), clause (b): "The word 'for' should be deleted at the beginning of this clause and the word 'and' inserted before the words 'The Bank' in the 10th line."

**The Chair:** Thank you, Mr Prins. Are there any questions for Mr Prins before we commence?

**Mr Bisson:** It hasn't been amended yet. We're going to have to move them all.

**Clerk of the Committee:** The commissioners require these amendments to be made, and we'd have to do that in the normal clause-by-clause process.

**The Chair:** At this point, I would ask Mr Smith for a brief introduction and I would ask the applicants for opening remarks before we proceed with questions.

**Mr Smith:** It's certainly a pleasure to be here this morning to represent my colleague Isabel Bassett, MPP for St Andrew-St Patrick, who's the sponsor of Bill Pr63. Ms Bassett sends her regrets that she's unable to attend this morning. I'm joined this morning by Stephen Clark, who's counsel with McCarthy Tétrault, and by Rory MacDonald, who's president and CEO of The Bank of Nova Scotia Trust Co.

As the clerk indicated, there are a number of matters to be considered here. I draw your attention to the compendium notes that are attached to your submission and, in particular, the correspondence from the estate bill commissioners. Certainly, as Mr Bisson indicated, appro-



priate amendments will be placed before the committee to address those concerns.

At this time, I'd like to turn it over to counsel to make some brief comments.

**Mr Stephen Clark:** Mr Chairman, members of the committee, I would like, if I may, just to give a brief explanation of why this bill is necessary and sort of put it in a business context, if I may. As was noted by Mr Prins in his opening comments, coming right from the estate commissioners' report, the Bank of Nova Scotia acquired control of the two Montreal Trust companies in 1994. At the time that the Bank of Nova Scotia acquired the Montreal Trust companies, it had its own trust company, The Bank of Nova Scotia Trust Co. What has gone on since that time is that there has been a reorganization of the business of Montreal Trust so as to be a better fit with the business of Scotia Trust.

You may have noticed that in the marketplace this is exactly what has been going on, as the Toronto-Dominion Bank has been reorganizing the affairs of TD Trust and the Royal Bank of Canada has been reorganizing the affairs of Royal Trust. In essence, what all of these reorganizations have done is to put the retail deposit-taking functions, the things you often see in terms of deposit accounts, GICs, under the bank so that they can be sold and marketed under the banner of the bank, leaving other more traditional trust services in the trust company.

In Scotiabank's case, it seeks to continue this reorganization by having Scotia Trust assume all responsibility for the personal trust functions within the Scotiabank group. In other words, if it's to deal with personal trust, it would be a Scotia Trust function, thereby leaving the corporate trust function with Montreal Trust.

This change would have no effect on employment at all, because those persons who are involved in doing this function for Montreal Trust would continue to perform those functions for Scotia Trust. In fact, there has been a harmonization of the employment positions of all people with Scotiabank, Scotia Trust and Montreal Trust, as employees now move smoothly between the two organizations.

To get there and be substituted as the trustee for all personal estates, Scotia Trust needs to be substituted in place of Montreal Trust. There are basically three ways this can be done, some of which were alluded to in the opening remarks. The first way is to have each individual maker of a will consent to that transfer. The difficulty with that is that for deceased persons that obviously is not possible. For persons who are alive, that would put them to the expense and trouble of going back to their solicitor to change the trustee to Scotia Trust. The third way is to go to court and ask a judge under section 5 of the Trustee Act to order a substitution of the trustee for each and every estate, and that's the reason the estate commissioners' report says it's impractical to do so, because there are thousands of them.

The procedure that is being used by Scotiabank here in Ontario, which is to ask for a private member's bill and have the substitution take place, is exactly the same procedure that was used in the earlier 1980s by various trust companies and was used last year by the Toronto-

Dominion Bank in connection with TD Trust. As well, the same legislation is being requested in each of the other provinces of Canada.

As required under the Legislature's procedures, the Scotiabank bill has been reviewed by the estate commissioners. The comments have been read this morning and Scotiabank and Scotia Trust agree with all of those comments. We regard them as technical, and it is important, as was noted by Mr Prins, that they all be passed in order for the estate commissioner's report to be accepted.

**1100**

I think others will make comment in a few moments, but we have also held discussions with the Ministry of Finance concerning this bill and, at least as far as we are aware, they are satisfied that it proceed.

There has been one objection: a gentleman by the name of Mr Theodore Stein, who is a retired employee of Montreal Trust. As a retired employee, he was offered a preferential rate of return on his deposit products and GICs with Montreal Trust. He has written a letter objecting to the passage of this bill. I have personally talked to Mr Stein yesterday and given him assurance that what the bill does has nothing to do with his personal position on rates of return on his deposit products and GICs. Mr Stein was concerned that we were amalgamating or somehow doing a corporate manoeuvre which would affect Montreal Trust and Scotiatrust, and it does not. I've spoken to him and explained that to him. I've also said that somebody from Scotiabank or Montreal Trust would call him and provide him with that reassurance.

With me is Mr MacDonald, who is the president and chief executive officer of Scotiatrust. Between us, hopefully, if there are any questions, we can help answer them.

**The Chair:** Thank you, Mr Clark. Mr MacDonald, did you wish any remarks before we go to questions?

**Mr Rory MacDonald:** No, thank you, Mr Chairman.

**The Chair:** Are there any other interested parties present? Seeing none, I will draw the committee's attention to the fact that there is an interested party, as Mr Clark has mentioned, Mr Theodore Stein. He is unable to be here today, but you have his letter to the clerk in front of you. That should be in your package of material.

At this point, we would now ask for comments from the government through Mr Derwyn Shea, who is representing the parliamentary assistant for municipal affairs, Mr Gilchrist.

**Mr Shea:** The deputant has given a very good background. He's detailed it very precisely. It is an issue we have dealt with in the past in other situations, and the rationale obviously is one where it is considered that a private bill is in order. At least Scotiabank particularly considers it to be in order, since section 5 of the Trustee Act only permits the transfer of trusteeship on a trust-by-trust basis rather than en masse. I think the deputant has made very clear the difficulties that trust-by-trust presents for the bank. The proposed bill permits the trusteeship of all trusts and estates held by the Montreal Trust Co of Canada to be transferred to the Bank of Nova Scotia Trust Co.

I've been advised that no objections to the bill have been raised by any of the ministries that would be



involved in this matter. I would like to just pause to ensure that the legislative counsel, Susan Klein, can confirm that's the case.

**Ms Susan Klein:** Yes. I circulated the bill to the Ministry of the Attorney General, the office of the public guardian and trustee and the Ministry of Consumer and Commercial Relations and they all advised me that they had no objections to the bill. I also sent it to the Ministry of Finance, which had a more active interest in the substance of the bill, and I'm not aware that they have any objections at this point.

**Mr Bisson:** Has the Ministry of Finance responded?

**Ms Klein:** I've had discussions with the Ministry of Finance and I believe they are satisfied. There is a counsel from the Ministry of Finance here as well to observe.

**Mr Shea:** Thank you very much, Ms Klein. Mr Chairman, if you'd indulge me, I'd just ask for any comments from the Ministry of Finance in that regard to confirm this.

**Ms Marilyn Stanley:** My name's Marilyn Stanley. I'm a lawyer with the Ministry of Finance. Ministry officials have reviewed the bill and there are no problems with it.

**Mr Shea:** I want to make sure we're very clear. Obviously, we're dealing with things of importance, such as wills and estates, and that's why we want to ensure everybody's had a chance to look at it. Clearly there are no objections to the bill from the ministries involved. The estate bill commissioners of the Ontario Court of Justice are of the opinion that the bill should pass, conditional upon the amendments placed before us. I understand one of the members of the committee will propose the amendments. They ought to carry. It is my understanding that the deputant has no difficulty with those amendments, and I pause for a moment to ask him to confirm that is the case.

**Mr Clark:** We agree to all the amendments.

**Mr Shea:** The final point that would be of concern to the committee is whether there's any objection. The deputant has responded to that. There was one objection laid that was before the committee. The deputant has indicated that he has spoken with that objector and there seems to be no further difficulty in that regard.

**The Chair:** We now call for questions to the applicants, to Mr Shea or in this case perhaps to other staff present at this meeting.

**Mr Gerretsen:** This deals with Mr Stein. You indicated that you spoke to him and that you clarified the situation with him, Mr Clark. Did he indicate that he would be here this morning regardless, or did you suggest that he not come here this morning? What happened exactly? Did you speak to him personally?

**Mr Clark:** Yes, I did. I spoke to Mr Stein personally. He is 79 years of age and currently has pneumonia. He misunderstood what this bill was doing. I think his concern was that if in any way the result of these steps could affect the interest rates he received, then he had a personal position of objecting. When I assured him that it did not, I said to him as well, "As a business matter, why don't I have somebody from either the bank or the trust company call you and talk to you about it?" But I assured him that what we were doing in this proposed bill

had nothing whatsoever to do with his preferential rates of return, as an ex-employee of the trust company, on his deposit.

**Mr Gerretsen:** Did he indicate that he would not be here this morning as a result of your assurances?

**Mr Clark:** Yes, he did.

**Mr Bisson:** I just want to understand one thing. The individual business would go to the Scotia Trust Co, so anybody who has investments at Montreal Trust would be transferred, through this bill, to Scotiatrust. I understood that correctly, right?

**Mr Clark:** What it does is it transfers the trusteeship where you've got a trust company that is the administrator, trustee or executor in an estate situation.

**Mr Bisson:** So it's strictly with the estates.

**Mr Clark:** Yes, it is the personal trusts. To be fair, when you read the wording it casts a wide net, but it's the personal trust business. The business objective is that when you look at it, you've got personal trust on the Scotiatrust side and corporate trust on the Montreal Trust side.

**Mr Bisson:** If a trusteeship was being managed by Montreal Trust and it's now going to be transferred over to Scotia, would the benefactors see any kind of difference?

**Mr Clark:** No, they wouldn't. Two helpful comments on that: The first position is that of course legislation governs the role, duty and responsibilities of a trustee; second, this bill specifically provides that if you had a complaint against the predecessor, Montreal Trust, that claim may be brought now against Scotiatrust. In other words, Scotiatrust stands up and says, "I assume full responsibility for everything that's gone on with this estate, everything in its past." That's a distinction from one that was here, for example, last year. Scotiatrust stands up and says, "We are responsible."

**Mr Bisson:** That's the question I was getting to. I just wanted to make sure that when all this is transferred over to Scotiatrust, you assume all the responsibilities and all liabilities or whatever that would have been under Montreal Trust, and there is no difference in benefits or anything like that for anybody.

**Mr Clark:** None at all.

**Mr Bisson:** You're saying there's no staff implications, which is interesting. You've just transferred all those people over?

**Mr Clark:** Mr MacDonald may want to respond, but what's ended up happening is that people move between the bank and the two trust companies fairly easily, in terms of benefit plan and everything else. It's become one organization.

**Mr MacDonald:** They're specialized officers. Basically, what you have is a marketing issue. We have customers of Scotiatrust and customers of MT going to the same officers, who are doing dual roles, and it's confusing everybody. But it's the same people.

1110

**The Chair:** Any further questions? Are the members of the committee ready to vote?

**Mr Bisson:** Aren't there some amendments first, before we do any votes?



**The Chair:** Yes, there are some amendments. We will walk through the sections and where amended I'll draw that to your attention.

Mr Kennedy, did you have a question?

**Mr Gerard Kennedy (York South):** What number of accounts and what value are in question here?

**Mr MacDonald:** Within Ontario, or the whole company?

**Mr Kennedy:** Within Ontario, as it affects our jurisdiction.

**Mr MacDonald:** It would be about \$1 billion and about 2,000 accounts.

**Mr Bisson:** How much is on the corporate side?

**Mr MacDonald:** I don't have that number. On the pension side which we just sold, it was about \$150 billion.

**The Chair:** Further questions? Are the members ready to vote?

We're voting on Bill Pr63, An Act respecting the Bank of Nova Scotia Trust Company, Montreal Trust Company of Canada and Montreal Trust Company, sponsored by Ms Bassett, MPP.

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

With respect to section 3, I understand there is an amendment.

**Mr Smith:** I move that subsection 3(1) of the bill be amended,

(a) by striking out "natural" in the 10th line; and

(b) by striking out "every document and trust" in the 12th line and substituting "a document or trust."

**The Chair:** Shall this amendment carry? Carried.

Shall section 3, as amended, carry? Carried.

I understand with respect to section 4 there is an amendment.

**Mr Smith:** I move that subsection 4(2) of the bill be amended,

(a) by striking out "section 1" in the ninth line and substituting "section 2"; and

(b) by inserting "or been subject to" after "had" in the second last line.

**The Chair:** Shall this amendment carry? Carried.

Shall section 4, as amended, carry? Carried.

Shall section 5 carry? Carried.

Shall section 6 carry? Carried.

I understand there's an amendment to section 7.

**Mr Smith:** I move that paragraph 2 of subsection 7(1) of the bill be amended by striking out "applies" in the fourth line and substituting "would otherwise apply."

**The Chair:** Shall this amendment carry? Carried.

I understand there is a second amendment to section 7.

**Mr Smith:** I move that subsection 7(2) of the bill be amended,

(a) by inserting "this act does apply to" after "subsection (1)" in the first line;

(b) by striking out "for" in the first line of clause (a);

(c) by inserting "and" after "otherwise" in the eighth line of clause (a);

(d) by striking out "for" in the first line of clause (b); and

(e) by adding "and" after "trustee" in the 10th line of clause (b).

**The Chair:** Does this second amendment to section 7 carry? Carried.

Shall section 7, as amended, carry? Carried.

Shall section 8 carry? Carried.

Shall section 9 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill, as amended, to the House? Agreed.

I wish to thank Mr Clark and Mr MacDonald and now declare this order of business closed. This also concludes our agenda.

**Mr Bisson:** I just want to wish Mr Shea well in his new endeavours. It has always been good working as an ally with Mr Shea on committee to bring some common sense to the government side. Your assistance in doing that has been very appreciated over the years.

**Mr Shea:** Thank you, Mr Bisson.

*The committee adjourned at 1116.*





## CONTENTS

Wednesday 26 February 1997

<b>City of Ottawa Act, 1996, Bill Pr73, <i>Mr Grandmaître</i></b> .....	T-197
Mr John C. Cleary	
Mrs Edythe Dronshek	
Mr Ray Jacobsen	
<b>Bank of Nova Scotia Trust Company Act, 1996, Bill Pr63, <i>Ms Bassett</i></b> .....	T-203
Mr Bruce Smith	
Mr Stephen Clark	
Mr Rory MacDonald	

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**Vice-Chair / Vice-Président:** Mr Bruce Smith (Middlesex PC)

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Mr Tony	Ruprecht (Parkdale L)
Mr Frank	Sheehan (Lincoln PC)
Mr Bruce	Smith (Middlesex PC)

**Substitutions present / Membres remplaçants présents:**

Mr Garry J.	Guzzo (Ottawa-Rideau PC)
Mr Derwyn	Shea (High Park-Swansea PC)

**Also taking part / Autres participants et participantes:**

Ms Marilyn	Stanley, solicitor, legal services branch, Ministry of Finance
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**Clerk / Greffier:** Mr Tom Prins

**Staff / Personnel:** Ms Susan Klein, Mr Michael Wood, legislative counsel

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T-19



T-19

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First Session, 36th Parliament

## Assemblée législative de l'Ontario

Première session, 36<sup>e</sup> législature

# Official Report of Debates (Hansard)

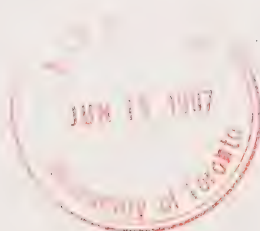
Wednesday 4 June 1997

# Journal des débats (Hansard)

Mercredi 4 juin 1997

Standing committee on  
regulations and private bills

Comité permanent des  
règlements et des projets  
de loi privés



Chair: Toby Barrett  
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LEGISLATIVE ASSEMBLY OF ONTARIO  
STANDING COMMITTEE ON  
REGULATIONS AND PRIVATE BILLS

Wednesday 4 June 1997

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO  
COMITÉ PERMANENT DES RÈGLEMENTS  
ET DES PROJETS DE LOI PRIVÉS

Mercredi 4 juin 1997

*The committee met at 1009 in committee room 1.*

COMMITTEE BUSINESS

**The Chair (Mr Toby Barrett):** Good morning, and welcome all to this regular meeting of the standing committee on regulations and private bills for today, Wednesday, June 4, 1997.

We have a number of new committee members. We also have a new gavel this morning. We will have a proper gavel at our next meeting. This committee has a new clerk, Rosemarie Singh, sitting next to me on my right and a new legislative counsel, Laura Hopkins, and there has also been the appointment of a new parliamentary assistant for this committee representing municipal affairs and the government, MPP Ernie Hardeman on my left.

You have two pages of agenda. Two private bills today, very similar bills as I read them, but separate bills. Our first order of business, however, is organization and under that first order of business our task is the election of a Vice-Chair. Are there any nominations?

**Mr Derwyn Shea (High Park-Swansea):** Chairman, I will move that Mr Marcel Beaubien be appointed Vice-Chair of the committee.

**The Chair:** Are there any further nominations for the position of Vice-Chair? Seeing no further nominations, I understand a vote would not be necessary and I declare MPP Marcel Beaubien Vice-Chair of the standing committee on regulations and private bills.

**Mr Tony Ruprecht (Parkdale):** I'd like to have a chance to vote on this, though, that my name be associated with the Vice-Chair because I think he's going to do a good job and you are now exempting me from doing that.

**The Chair:** I would say all in favour and, Mr Ruprecht, I would say this is unanimous but I think you've been recorded in Hansard.

**Mr Shea:** I'm defending your ruling, Mr Chairman.

**The Chair:** Yeah, right, and congratulations to Mr Beaubien. Motion carried. I declare this order of business closed.

The next order of business under agenda item 1 is subcommittee membership. This is our subcommittee to deal with any committee business, meetings usually held in between meetings.

**Mr Shea:** Chairman, I move that Mr Ernie Hardeman replace Mr Gilchrist on the subcommittee on committee business.

**The Chair:** Okay, we have received a motion. All those in favour? Opposed? I declare that motion carried. The subcommittee stands with this change in member-

ship. I declare the business of organization closed. This item of business is closed.

4588 BATHURST ACT, 1997

Consideration of Bill Pr74, An Act respecting 4588 Bathurst.

**The Chair:** The next item of business is bills, and our first order of business is Bill Pr74. I would ask both the sponsor and the applicants for this bill to please approach the witness table.

Apparently there has to be some discussion with respect to amendments, so the request is that we have a five-minute recess to pin down the wording on these amendments.

**Mr Shea:** Agreed.

**The Chair:** Recess for five minutes.

*The committee recessed from 1015 to 1019.*

**The Chair:** I wish to thank the committee for bearing with us and I trust issues have been resolved. What we normally do now is we ask the sponsor and the applicants to introduce themselves and make opening remarks. We do throw the discussion of the bill out to the committee. We go in rotation. I would now ask MPP Marcel Beaubien, who is standing in for sponsor MPP Isabel Bassett, for any brief opening remarks.

**Mr Marcel Beaubien (Lambton):** It certainly is a pleasure for me to present Bill Pr74 on behalf of my colleague Isabel Bassett. Bill Pr74 deals with 4588 Bathurst. The two Jewish community centres would like the province to re-establish the centres as tax-exempt properties. Until bankruptcy forced the centres to reorganize into two separate bodies, the Jewish community centres had tax-exempt status.

The Crombie panel recommended that the province treat all properties equally and offer grants in lieu of taxes as an alternative to tax exemptions. Crombie advised against the patchwork quilt of property classifications which currently exists.

The directors of the two centres, Bill Emery and Morris Zbar, are aware that the Minister of Finance has not made any decisions regarding property tax exemptions and may adopt Crombie's recommendation in the minister's second property tax bill due this summer.

At this point in time I would like the presenters to introduce themselves.

**Mr Gerald Ross:** My name is Gerald Ross. I'm the head of the legal committee of the Jewish Federation of Greater Toronto. On my left is Joseph Steiner, who is the president-designate of the Jewish Federation of Greater Toronto. On my right is Michael Kerbel, who is president of Bathurst Jewish Centre, which operates the north JCC.



Behind me, in the first row, Mr Zbar, who is with the Jewish Federation of Greater Toronto as a staff person and the person in charge. Behind him we have Harvey Kotler, who is the vice-president of 750 Spadina Avenue Association, which I think the world knows as the Bloor JCC, and beside him we have Bill Emery, who is the director of the Bloor JCC.

From 1918 on, when the organization was known as the YMHA of Toronto, through 1951 when the name was changed to Jewish Community Centre of Toronto, and continuing up to the present date, the Jewish Community Centre has been the central organization within the Jewish community for outreach and for the provision of programs which are funded by the Jewish Federation of Greater Toronto. It was an active organization, it was vital, it flourished through the years, and indeed, in another form, flourishes today.

Unfortunately, through the dirty 1980s, if I can call them that, expansion took place overoptimistically. There were financial difficulties encountered which led to what we consider to be a massive rescue operation by the Jewish community in Toronto to the extent that approximately \$15 million was pumped into the Jewish Community Centre and the Jewish Community Centre was restructured through a proposal in bankruptcy.

As a result of that restructuring, two new entities came: one, 4588 Bathurst Street, and the other, 750 Spadina Avenue Association. These are both non-profit corporations that were put in place for the purpose of acquiring title to the former two branches of the Jewish Community Centre of Toronto. There was a third branch that did not survive because it was not necessary for community purposes just north of Steeles Avenue and it was lost through this, but we were fortunate enough, through an awful lot of effort on the part of the community, to save the two JCCs. While one is formally 4588 Bathurst and the other is formally 750 Spadina, I think to the person on the street they are still the Bloor JCC and the Bathurst JCC, or for those of us who are old enough, the Bloor Y and the Bathurst Y.

The Jewish Community Centre of Toronto had an exemption from real property taxes under the Jewish Community Centre Act, 1951. That statute was specific to the organization and was lost when the proposal in bankruptcy was completed. The purpose of our petition for the two bills is merely to replace the tax-exempt status that was lost by the Jewish Community Centre. It's business as usual.

In recognition of the importance of this — and it is vitally important for the Jewish community in Toronto — Metro council, the city of Toronto and the city of North York have all passed resolutions in support of these bills. Without these bills, two centres serving 15,000 people may well be forced to close.

The purpose of our being here today is to ask the Legislature to support the tradition — the note to me says 45 years of excellent services to the Jewish community and other users, but it's at this point closer to 80 years of continuous service, and that's why we are here.

**The Chair:** Thank you, Mr Ross. Do any of the other applicants wish any comments before we go to questions?

**Mr Joseph Steiner:** I don't think so, Mr Chair. Thank you.

**The Chair:** Are there any other interested parties present who wish to make comment? Seeing none, I now will turn to the parliamentary assistant for municipal affairs, Ernie Hardeman, for any comments on behalf of the government.

**Mr Ernie Hardeman (Oxford):** Very simply the government, upon reviewing the application, would register no objection.

**The Chair:** Thank you, Mr Hardeman. That's a very brief comment. Mr Hardeman is replacing a fairly long-standing PA to this committee, Derwyn Shea, and you have a little different style. We have Mr Shea over here and there may be some questions from Mr Shea. I would now throw this open to the committee.

**Mr Monte Kwinter (Wilson Heights):** I want to thank the committee for its indulgence in allowing me to make some comments. I'm not a member of this committee but I have a very strong and long-lasting interest in this issue.

The one thing I really want to highlight is that nothing really has changed for the people who are being served by these two community centres. Nothing has been changed with the goals, aims and activities of these two community centres and nothing has really been changed with the leadership.

What had happened, as has been stated by Mr Ross, was that because of financial difficulties and the bankruptcy proceedings, there had to be a restructuring, an accommodation with the bank, an accommodation with those others who had been providing financial support, and as a result two new legal entities have emerged. All these bills really do is to recognize that the old legal entity has been wound up because of the bankruptcy, the new legal entities are in place and the benefits that accrue to the old legal entities should be passed on to the new.

Nothing else has changed. Everybody involved is the same, the people being served are the same and the programs that are being served are the same. I am very supportive of this, and as you've already heard, the municipalities that might have a great interest in getting this revenue have certainly supported this, and Metro, North York and the city of Toronto have all given their approval and support to these bills. I would urge members of committee to do the same. Thank you.

1030

**Mr Frank Sheehan (Lincoln):** I have no problem supporting the act, but I have a question. Are you putting the province in the position of being a party to a bankruptcy?

**Mr Ross:** No, sir, not at all. The bankruptcy is now over by — it was a proposal rather than a bankruptcy. It's been over for two years. Creditors I think achieved almost 100 cents on the dollar right across the board, and I can see no embarrassment, no question at all as to the province's involvement. If so, we would not be here.

**The Vice-Chair (Mr Marcel Beaubien):** Any further comments or questions from committee members? I don't know whether the parliamentary assistant is going to let us off the hook or not.

**Mr Hardeman:** The reason the government does not register any objections — we share some of the concerns Mr Sheehan just expressed, that this is not a party to a bankruptcy or a bailout for anyone, that it relates strictly



to what Mr Kwinter referred to, that these exemptions would have been in existence had the transaction not taken place. We feel it appropriate to register no objection to this bill as it just allows the community centres to be tax-exempt under the new structure the same way they were under the old structure. They are still serving the same people and the same needs.

I would have one question that's not related from the ministry perspective but from my own involvement over the years with the municipal tax structure. I wondered why the bill to exempt the taxes of the past, as opposed to having communities just write off those taxes, relates to the retroactivity of the bill as opposed to starting it today and having the municipalities write off the taxes of the past?

**Mr Ross:** That's a difficult question to answer. I believe that's something neither of the municipalities have at any time expressed a desire to do. It may be an interplay between the municipalities and the province, with the province being in charge of assessment and the municipalities reaping the benefit of that. Certainly it has never been proposed to us as a method of proceeding.

**Mr Hardeman:** The other thing I want to say, and obviously all the community here, the municipal governments involved and the school boards involved, have supported this bill, so it's again for that reason we would not register objection, but I would like to put on the record the comments that were made by Mr Beaubien about the assessment changes that may or may not be forthcoming and that the impact of those would again affect these properties the same as other properties and would then supersede this bill. I wouldn't want, through this discussion, the applicants to think this bill would then override future legislation from the province and avoid the realities of what will happen to all properties if assessment reform is to be put forward.

**Mr Ross:** I think the applicants are trying to be in the same position they would have been in had this not occurred. We're not looking for any treatment or promises behind what is really a technical continuation of what was.

**Mr Hardeman:** Thank you very much. It would be our position too that we are prepared not to object to this bill based on the fact that it will take you right back or put you where you would have been, had these actions not taken place.

**Mr Shea:** Mr Ross's comments and response to the question by the parliamentary assistant give me some comfort and simply confirm what I believe to be the case as we began the hearings. Setting aside this application but picking up on comments implicit in the statements of the parliamentary assistant, I have to register my personal opinion that at some point I think municipalities in this province will have to be empowered to give grants in lieu.

Metropolitan Toronto, and let me speak for the city of Toronto particularly, has truly become over years just patchworked to death. If we ever took a map of all the tax-exempt properties across the municipality it would be astonishing in what it represents in terms of community good. But I think in most cases the broader community doesn't know the extent to which that's being done, and

in some ways I think we save an awful lot of difficulty. We allow the municipalities to respond more quickly to changing circumstances if we encourage the finance minister to move towards that change in finances that indeed would eliminate the cumbersome process we have now and allow municipalities to deal with grants in lieu.

I'm mindful of this particularly. I guess because of my grey hair I can remember the YMHA at the corner: 750 is one that strikes me as one case in point. It is prime commercial property, indeed it is prime residential property, and there is no argument on my part on anything except that the services offered from that facility have been of the highest order and of the greatest need to the community — not a question about that.

Somewhere along the line, and we've all been through this, things may change. Something additional may want to happen in terms of development and so forth. I think instead of having to move back and forth into the parliamentary process, the municipality has to have that ability to respond with greater flexibility and negotiate with the community where there are changes. So I would hope, picking up on the comments of the parliamentary assistant, there will be changes brought forward in terms of the entire municipal financing structure and along the lines, I would think, that David Crombie has recommended. I think that would be much more helpful to everybody involved. It may have a difficult transition period, but I think in the long run it will be helpful to us all. In the meantime, without any reservations at all, I support the bill before us today.

**The Vice-Chair:** Are there any further questions from committee members either to the applicants or to the parliamentary assistant?

**Mr Ruprecht:** Mr Shea is making a good point. He is reiterating what we've been saying on this side for a long time, that this whole process needs restructuring. I've talked to you about this, Mr Chair, and I would only hope that these comments will be taken seriously and that this process will indeed be sped up and that we don't have to come back here time and time again, year after year for 15 years and listen to some of the same applicants. I would only hope that these comments will be taken seriously.

**The Vice-Chair:** I have heard these sentiments from other members of the committee as well.

1040

**Mr Hardeman:** In answer to both Mr Shea and Mr Ruprecht, I would point out that I have a letter that was sent from the Minister of Finance in comment to inquiry on this bill. He suggested they register no objections. However, we suggest it may be useful not to proceed with these private bills until the Who Does What panel has considered the exempt properties issue.

As you know, David Crombie in his third letter included exempt properties as one of the items on the continuing agenda, to be exempted in the near future. That points out that the minister is looking at this issue. We would hope they would continue looking at that and solve this problem, to not require this type of process to deal with the issue.

We are prepared to look beyond the second paragraph of the letter, suggesting that it not be done, that we



proceed with this bill and that this organization carry on doing the good work in the community while we address the other issue. Hopefully, that will come in the very near future.

**The Chair:** Are there any comments from the applicants?

**Mr Ross:** Only to thank this committee for hearing us and for understanding the reason why we're here.

**The Chair:** At this point I will ask the committee, are the members ready to vote? I understand there are some amendments to Bill Pr74, An Act respecting 4458 Bathurst, sponsor Mr Marcel Beaubien, MPP.

Are there any amendments to section 1?

**Mr Ruprecht:** I have some amendments. I am delighted to make these amendments, knowing full well that the Jewish Federation of Greater Toronto has done a great job. I'd like to be associated with these amendments in terms of speeding this process up so it hopefully will not be the last organization or association or cultural group which will get these exemptions.

I move that the definition of "Metro school board" in section 1 of this bill be struck out.

That's the first amendment.

**The Chair:** All those in favour of this amendment?

**Mr Hardeman:** I have a question on the amendment. I need an explanation of why we are striking out a definition. For the record, I think it relates to what the next amendment may or may not do, but for me to vote on striking out a definition, I need some clarification as to why I would want to support such an amendment.

**The Chair:** I'll ask legislative counsel.

**Mr Ruprecht:** Yes, that's a good point. We'll get legal counsel to do the footwork.

**Ms Laura Hopkins:** This is a technical amendment needed for drafting reasons. It relates to a substantive amendment that will be made to section 4. What it does is replace the reference to the Metro school board with a reference to school boards generally. It will work both in the current regime of school board governance and also in the regime that will exist under Bill 104 changes.

**Mr Hardeman:** If the definition change were approved, the other amendment not approved would not change the impact of the bill? The bill could proceed, changing this definition and then not approving the other amendment?

**Ms Hopkins:** I need a minute.

**Mr Hardeman:** In all fairness, I don't want to be caught voting for half of the change and then find the other half does not succeed and the bill is not operable.

**Ms Hopkins:** The two amendments are related. If this amendment were to pass and the next amendment were not to pass, the next amendment would be a little more difficult to understand.

**Mr Sheehan:** Why would this amendment not include this change from "Metro school boards" to just "school boards"?

**Ms Hopkins:** It's not necessary to define "school board."

**Mr Hardeman:** I would seek unanimous consent to deal with the amendment in section 2 prior to the amendment in section 1.

**Interjection:** Section 4?

**Mr Hardeman:** Section 4, yes.

**The Chair:** Is there unanimous consent? Agreed. We will stand down section 1 and we will go to section 4. Are there any amendments to section 4?

**Mr Ruprecht:** I have an amendment here. I move that subsections 4(1) and (2) of the bill be struck out and the following substituted:

"School board resolution

"4(1) If a tax cancellation bylaw is in effect under section 2, a school board entitled to share in the assessment of the land for school purposes may by resolution direct the city to cancel the taxes payable on the land for the purposes of the board.

"Notice

"(2) A school board that passes a resolution under subsection (1) shall forward a copy of it to the city and to any other school board entitled to share in the assessment."

**The Chair:** I'm not sure which should go first. I would ask for any discussion on this amendment.

**Mr Hardeman:** I'm not sure whether it's discussion or a question on process. My personal knowledge is that we've been having considerable discussions in the Who Does What process as it relates to education funding and whether that will remain a local property tax or become a provincially funded formula.

The discussion presently on the table is to have a portion of education funded by property tax that will be set on a provincial mill rate that the local municipalities would collect, forward to the school board and then the province would pay for the remaining portions of education. If that proposal were to proceed, I'm not sure at that point in time one could identify the portion of the property tax that was going for education that would be in the realm of the school boards to forgive, because they would be forgiving a provincial tax. As soon as they forgave it, the province would have to pick up the difference between what they were going to get and what they end up getting, so it would not be a local tax. I'm not sure it would be appropriate to give them the authority to do that in the bill.

Having said that, I recognize that private bills are bills that deal with policies that are in place at the time the bill is put forward. I would have no objection to that being put in as it applies now, recognizing that a public bill that deals with funding of education in the province would override this bill as soon as that was implemented. At that point in time I'm not sure the new school boards would have the authority to forgive what in essence would be a provincial tax collected on their behalf.

I point that out as a concern I would have, as this section would only apply after the change had been made. I'm concerned that it would not be appropriate after the change was made. It's kind of between a proverbial rock and a hard place in timing as to how that could be done. If it becomes a locally collected education tax that was collected on behalf of the province, I'm not sure that local school boards would have the ability to pass a resolution and have that tax not collected.

**Mr Kwinter:** If I can be helpful, there are no provisions in this Bill Pr74 that are prospective, that is, anticipating changes that may take place, with the

exception of something that has already taken place, and that's Bill 104. The whole purpose for these amendments is really to remove the reference to Metro Toronto school boards and just leave it as "school boards," to reflect the fact that we are in this transition period.

I don't think anyone contemplates that anything is going to be included in this bill that will exempt this organization from anything that happens in the future. We've already discussed that when we talk about grants in lieu of taxes. If there are going to be changes in the way school taxes are apportioned and they apply to everybody, then of course they will apply to this as well.

**The Chair:** Any further discussion on this amendment to section 4?

Shall this amendment to section 4 carry? Carried.

Shall section 4, as amended, carry? Carried.

At this point we will return to section 1. Is there any further discussion on the amendment proposed to section 1?

Shall this amendment carry? Carried.

Shall section 1, as amended, carry? Carried.

Continuing on, shall section 2 carry? Carried.

Shall section 3 carry? Carried.

We will now pass over section 4. That business is completed.

In keeping with a bit of a tradition in this committee, for the purpose of voting we will collapse sections 5 through 11. Shall sections 5 to 11 carry? Carried.

Is there an amendment to the preamble? No, not required. Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the schedule carry? Carried.

Shall the bill, as amended, carry? Carried.

Shall I report this bill, as amended, to the House? Agreed.

I wish to thank the applicants. I now declare this order of business closed.

1050

#### 750 SPADINA AVENUE ASSOCIATION ACT, 1997

Consideration of Bill Pr75, An Act respecting 750 Spadina Avenue Association.

**The Chair:** We have a second bill, similar but distinct. Our next order of business is Bill Pr75, An Act respecting 750 Spadina Avenue Association. Again, our sponsor, Marcel Beaubien, MPP, is standing in for Isabel Bassett MPP. I would ask sponsor Beaubien for any comments that you may have.

**Mr Beaubien:** Bill Pr75 is very similar to Bill Pr74. Bill Pr75 is An Act respecting 750 Spadina Avenue Association. The preamble is very similar to the previous bill, namely Pr74, where the Jewish Community Centre is looking to establish a tax-exempt property located at 750 Spadina.

**The Chair:** Our sponsors have introduced themselves. Just to clarify, we have a new applicant.

**Mr Harvey Kotler:** My name is Harvey Kotler. I'm the vice-president of the Bloor JCC. I was previously introduced.

**The Chair:** I would now ask the applicants for any remarks.

**Mr Ross:** Mr Chairman, I trust I could say that whatever I have said before goes for this one as well.

**The Chair:** Well spoken. Are there any interested parties to this bill? I see no interested parties. I now again ask the parliamentary assistant for municipal affairs, Mr Hardeman, for any comments from the provincial government.

**Mr Hardeman:** As the applicant said, I think this bill is identical, except for the address, to the previous bill as it relates to the issues. I would just put forward that the government also registers no objection to this bill.

**The Chair:** I would now call for questions from committee members to either the applicants or the parliamentary assistant.

**Mr Shea:** Obviously this is subject, as the parliamentary assistant has said, to the future of the municipal finances restructuring, so what we're doing now, as Mr Kwinter rightfully pointed out in the last bill before us, is dealing with what is in place at this moment. It's appropriate to do so.

I have a question that flows out of the documentation before us. On the letterhead of the executive committee of the city of Toronto at its meeting dated September 16, 1996, it notes a communication from Councillor Leckie dated August 12, 1996, but that communication is not attached. Can the deputant provide any information about that inquiry made by the councillor?

**Mr Ross:** I'm sorry, we cannot.

**Mr Shea:** I have no other questions.

**The Chair:** Any further questions from the committee? I understand amendments have been circulated. Are the members of the committee ready to vote?

**Mr Shea:** Yes.

**Mr Ruprecht:** Should we be doing amendments, Mr Chair?

**The Chair:** Just a moment. Just to clarify, we are voting on Bill Pr75, An Act respecting 750 Spadina Avenue Association, sponsored by Mr Beaubien.

**Mr Ruprecht:** I have an amendment. I move that the definition of "Metro school board" in section 1 be struck out.

**The Chair:** Any discussion?

Shall this amendment to section 1 carry? Carried.

Shall section 1, as amended, carry? Carried.

**The Chair:** We'll go on to section 2.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Section 4, Mr Ruprecht.

**Mr Ruprecht:** I move that subsections 4(1) and (2) of the bill be struck out and the following substituted:

"School board resolution" — do you want me to read this? It's the same amendment as to Bill Pr74.

**The Chair:** I think we should read it into the record.

**Mr Ruprecht:** All right.

"School board resolution

"4(1) If a tax cancellation bylaw is in effect under section 2, a school board entitled to share in the assessment of the land for school purposes may by resolution direct the city to cancel the taxes payable on the land for the purposes of the board.



"Notice

"(2) A school board that passes a resolution under subsection (1) shall forward a copy of it to the city and to any other school board entitled to share in the assessment."

**The Chair:** Any discussion of this amendment to section 4?

**Mr Hardeman:** Just to reiterate that the comments I made on the previous amendment to Bill Pr74 would hold true in this case too, that we will not be objecting to the amendment and will vote in support of it.

**The Chair:** Any further discussion?

Shall this amendment to section 4 carry? Carried.

Shall section 4, as amended, carry? Carried.

In keeping with tradition, shall sections 5 to 11 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the schedule carry? Carried.

Shall the bill, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? Agreed.

I wish to thank all parties involved. I now declare this order of business closed and I now declare this standing committee meeting adjourned.

*The committee adjourned at 1059.*





## CONTENTS

Wednesday 4 June 1997

<b>4588 Bathurst Act, 1997, Bill Pr74, Ms Bassett</b> .....	T-207
Mr Marcel Beaubien	
Mr Gerald Ross	
Mr Joseph Steiner	
<b>750 Spadina Avenue Association Act, 1997, Bill Pr75, Ms Bassett</b> .....	T-211
Mr Marcel Beaubien	
Mr Harvey Kotler	
Mr Gerald Ross	

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Mr Toby Barrett (Norfolk PC)  
Mr Marcel Beaubien (Lambton PC)  
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Mr Ernie Hardeman (Oxford PC); parliamentary assistant  
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Mrs Helen Johns (Huron PC)  
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Mr Tony Martin (Sault Ste Marie ND)  
Mr Tony Ruprecht (Parkdale L)  
Mr Derwyn Shea (High Park-Swansea PC)  
Mr Frank Sheehan (Lincoln PC)  
Mr Bill Vankoughnet (Frontenac-Addington PC)

**Also taking part / Autres participants et participantes:**

Mr Monte Kwinter (Wilson Heights L)

**Clerk / Greffière:** Ms Rosemarie Singh

**Staff / Personnel:** Ms Laura Hopkins, legislative counsel

112 07  
HC 15  
S 92

Government  
Publications



T-20

T-20

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First Session, 36th Parliament

## Assemblée législative de l'Ontario

Première session, 36<sup>e</sup> législature

# Official Report of Debates (Hansard)

Wednesday 11 June 1997

# Journal des débats (Hansard)

Mercredi 11 juin 1997

Standing committee on  
regulations and private bills

Comité permanent des  
règlements et des projets  
de loi privés

JUN 27 1997



Chair: Toby Barrett  
Clerk: Rosemarie Singh

Président : Toby Barrett  
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LEGISLATIVE ASSEMBLY OF ONTARIO  
STANDING COMMITTEE ON  
REGULATIONS AND PRIVATE BILLS

Wednesday 11 June 1997

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO  
COMITÉ PERMANENT DES RÈGLEMENTS  
ET DES PROJETS DE LOI PRIVÉS

Mercredi 11 juin 1997

*The committee met at 1005 in committee room 1.*

**The Vice-Chair (Mr Marcel Beaubien):** I'd like to call the meeting to order. The meeting is supposed to start at 10 o'clock and we're already late. Good morning, everyone. Welcome to the standing committee on regulations and private bills. There are two items of business we have to deal with this morning, namely, Bill Pr64, An Act respecting The National Ballet of Canada, and Bill Pr80, An Act respecting the Young Women's Christian Association of Niagara Falls.

NATIONAL BALLET OF CANADA ACT, 1996

Consideration of Bill Pr64, An Act respecting The National Ballet of Canada.

**The Vice-Chair (Mr Marcel Beaubien):** At this time I would like to call the presenter on Bill Pr64. I think, Mr Shea, you will be presenting the bill?

**Mr Derwyn Shea (High Park-Swansea):** I am delighted to present the bill and I am delighted to sponsor the bill on behalf of MPP Isabel Bassett, who cannot be with us today. But I have some more-than-passing acquaintance with the applicants and what they are seeking. I wear two hats today. Not only do I have the pleasure of making the introduction, but I'll also be acting as the government spokesman. The PA is not here at present and I will be pleased to make the comments and answer all the questions in this regard.

**Mr Gilles Bisson (Cochrane South):** That means that you and I will agree again.

**Mr Shea:** I think we're on the same wavelength. We may be able to truncate this entire debate if we are.

I'd like to introduce the deputants on behalf of the National Ballet of Canada, which you know is the premier ballet company of this nation. It is at home in the city of Toronto and receives tremendous support from the citizens of this nation. I am very pleased to introduce to you, from left to right, Bob Johnston, Jim Pitblado and Valerie Wilder. I normally don't start left and go right, but I did on this occasion.

I'm very pleased to introduce them to make their deputation, which frankly is very pro forma. Before us is legislation that is not dissimilar to many others that we've dealt with in the past. So I might turn this over then to Mr Pitblado.

**Mr Jim Pitblado:** Thank you, Mr Shea. As I understand it, the bill received first reading in the Legislature in June 1996. It is what I would call a permissive bill. It would allow the city of Toronto, Metro Toronto and the Metro Toronto school boards to take action individually — and hopefully at the end of the day it would be collective — to cancel the taxes on what is now called

the Walter Carsen Centre located at 470 Queens Quay West in Toronto.

We occupied this space approximately two years ago. It was space owned indirectly by the federal government that had sat idle in the condominium building for 11 years. The city of Toronto in effect renounced their right to the space and we acquired it for \$1, have refurbished it, and we are asking that we be put on the same footing in those facilities as the Canadian Opera Company at the Tannenbaum Centre, the Canadian Stage in the St. Lawrence Centre, Roy Thomson Hall and indeed the O'Keefe — now Hummingbird — Centre, where both the National Ballet and the Canadian Opera Company perform. We are asking for equality of treatment, and in order to allow the municipalities to do that, it's required that there be a bill passed by the Legislature, what I call a permissive bill, to give them the power to do that.

The city has supported us very strongly and has passed a motion to in effect cancel our taxes. We still have to achieve that with Metro and the school board but we're confident we can do so. What we're asking this committee and this Legislature to do is to pass this bill to give us the power to cause the other three jurisdictions to cancel the real estate taxes on that property.

**The Vice-Chair:** Thank you. Are there any other comments from the applicants? If not, do we have any interested parties wishing to make comments? Then, Mr Shea, I guess you're acting as the parliamentary assistant today. Any comments?

**Mr Shea:** I am. The government has no objection to the application. It reminds the applicant and reminds the committee again that this is subject to whatever future arrangements may be made through Who Does What, the restructuring arrangements and the financial arrangements that may emerge in the future that would affect municipalities in Ontario, the city of Toronto notwithstanding.

We understand also that this is retroactive to 1995, which is subject to determination by the local authorities, whether it be the school boards or the councils. It's up to them to make their determination. This is enabling legislation and it goes no further than that. It allows each jurisdiction to make its own arrangements at that point.

With those caveats, the government has no objections whatsoever to this legislation. There will be one amendment, though, to respond to one aspect that deals with one of the school boards, but it's a very minor technicality.

**The Vice-Chair:** We can deal with that later on. Do we have any questions from the committee members? We'll start with the official opposition.

**Mr John Gerretsen (Kingston and The Islands):** We'll pass for now.



**Mr Bisson:** On behalf of the NDP caucus I can certainly assure this committee and the presenters that we don't have a problem in so far as what you're seeking is concerned. I just have a couple of questions that I wanted to ask. First of all, and I guess it would be to the leg counsel or the parliamentary assistant, are there any other such arrangements in the city of Toronto with any other organization such as what's being requested here? Is this the first such, or are there other examples where this has already happened?

**Mr Shea:** Oh yes, a number of examples.

**Mr Bisson:** Such as? Just so that I know.

**Mr Shea:** I apologize. I can't just dredge names out of my head but there are a range of non-profit organizations, whether it be the Canadian Legion or service organizations, YWCAs. There are a number of agencies such as that.

**Mr Bisson:** I am just about to get from the ministry —

**Mr Shea:** In fact, in the last year we've had a number of cases.

**Ms Linda Gray:** I am Linda Gray. I am with the Ministry of Municipal Affairs, coordinator of legislation. Yes, this is correct. There are a number in the city of Toronto. The one that most closely represents the one that is being applied for here I think would be an opera rehearsal centre on the extension of Front Street. They had a similar exemption, I believe, two or three years ago. So there are a number of this nature in Toronto.

**Mr Bisson:** All right. The question that follows from that is it seems to me the process which these organizations have to go through in order to get the exemption seems kind of onerous, to say the least. They need every time not only to get, in this case, the three levels of government, education and two municipal levels, but they've got to come here as well. Wasn't there some move to try to address that?

**Mr Shea:** There was, and Mr Bisson does have a good recollection. The ministry had indicated it was going through that exercise to truncate the process, streamline it, and that's why I gave some sense of alert to the committee that with Who Does What, some of the restructuring of the way we do things and try to streamline operations, I would expect the ministry would be bringing forward amendments in this regard.

**Mr Bisson:** Just for the record and for the proponents here, it seems to me we don't need to have citizens and groups going through the kinds of hoops you're having to jump through to get here. If the policy is going to be that we're going to waive municipal and school board taxes as a mechanism for municipal governments to support your work, that then should become provincial policy. There should be an easier way of doing that.

The only other thing I want to add, and I don't want to get too partisan in this committee, is that I think we're probably going to see more and more of this as both senior levels of government start reducing their transfers and start reducing their support to cultural organizations, which is to me quite troubling because I think there's not only the cultural side of this but there's also the economic side of what it means to our provincial economy, our national economy and the economy of the city of Toronto, the work that people like these here do. I would

much prefer to see a provincial policy, one that deals with this issue, but number two, and equally as important, is that the provincial and federal governments take their responsibility and properly fund these organizations so they can carry on doing the work they do.

With that, I will just say that we will support this particular private bill.

**Mr Shea:** I assume that was a question to the parliamentary assistant and I would be happy to respond to it.

**Mr Bisson:** That was just a comment.

**Mr Shea:** Clearly in terms of the cultural funding, I know the government is looking at a number of options that will address some of the difficulties we have faced in terms of dealing with the debt and the deficit, and we're trying to find other ways to ensure that adequate resources are provided for the cultural community.

I want to, though, correct Mr Bisson on one point. This legislation is not in itself waiving the taxes. What it does is provide enabling legislation so that the local jurisdictions may themselves decide whether they will or will not.

**Mr Bisson:** No, I understand.

**Mr Shea:** The provincial government is not waiving that tax at all. That's left up to each local jurisdiction.

**Mr Bisson:** Just one very quick part. I understand — I read the legislation — that's what it does. The point I want to make here is that governments in the past stepped in, both federal and provincial levels of government, to support groups and cultural organizations and groups for the arts for a good reason: The private sector wasn't doing it. The private sector only has so much capacity. There's only so much ability on the part of the private sector to fund through charitable means the work that you do.

The other part of the money that you get is obviously from ticket sales. It's a very expensive business and to charge what would be required to offset your costs would be a deterrent sometimes from allowing people to come and enjoy the work that you do. That's why provincial and federal governments got into the business of funding these groups. I'm just saying if we don't do that properly, we're putting groups like this in jeopardy, which would be, I think, culturally a bad thing, but even as important is what it means to our economy.

**Mr Shea:** Mr Bisson, you will know and I think share this government's concern that in the area of seeking new sources of revenue, part of that was the tax mechanism and it was to find ways to allow 100% donations. It was with some regret that we saw the federal government rolling that back to 75%. We are still continuing to press the federal government to allow that to go to 100%, as just one aspect of finding new revenues for the important areas of arts and culture in our communities. So I appreciate those comments.

**The Vice-Chair:** Thank you very much. That was a very enlightening discussion between the two of you. Are there any questions or comments from the government side? If not, then Mr Gerretsen.

**Mr Gerretsen:** I have a comment, and maybe it shows my municipal background more than anything else, or my municipal bias. I'm kind of surprised the government would take such an easy attitude towards this, taking into



account the position they have taken with respect to a user-pay kind of atmosphere that they want to create throughout the province. I'm going to support this, but I will tell you, you're opening up a can of worms that once you open it up, you'll never be able to shut it.

What you're really doing is, once the council has implemented a bylaw allowing this to take place, you're giving a perpetual grant to this organization in the amount of the tax of \$147,000, or whatever it is, on an annual basis. Once you do that, it is not something that will be approved on an annual basis. Sure, the bylaw can be rescinded and sure, this is a great organization, but so are many other cultural and heritage groups in this province. If property taxes are to pay for the local needs of a community, the actual services that people get on a day-to-day basis — and that seems to be the direction this government's going with its downloading legislation; whether it's good or bad is not for us to discuss here at this time — what you're really saying is that certain properties, for whatever good reason, will no longer have to pay their share of the services that are being supplied to those properties.

1020

It's a wonderful idea for the ballet association, for numerous other groups — we could bring in hundreds of groups like that — but in effect what you're doing is increasing the local taxation burden on businesses, large and small, and residential property taxpayers throughout this entire province.

I come from a community that is well endowed with arts and cultural organizations and I can well recall, in my time of being on municipal council, we had many of these applications as well on a year-to-year basis and we approved them. But what we've ultimately ended up doing is showing these grants on an annual basis so that the community out there knows exactly who is getting what kinds of special exemptions as a result of certain arrangements that have been made with the municipality.

From the National Ballet association's viewpoint, and I can well understand why they're here, once a bylaw like this is passed at the various municipal levels, or at the school board levels, it's going to stay there and they don't have to, on an annual basis, go hat in hand to Metro council, to city council — I guess there will only be one council after January 1 — and to the school boards, saying in effect — they won't have to go to the school boards either, I guess — to whichever local Metro council is left and say, "Will you please waive the money or give us a grant for the amount of money that's being waived here?" To me it just seems very inconsistent with the way this government has been operating or is allegedly operating with respect to government funds.

I'll just leave it at that. I'm just issuing a warning. I'm sure Mr Shea has seen this as well in his municipal experience, that once you start this kind of thing — and they're all for good causes and we all want to help these kinds of causes. I think the cultural and heritage organizations in our communities are extremely important. They are very much an integral aspect of our day-to-day living and certainly ought to be encouraged in whichever way we can. But in the long run, if we're saying that by the mere passing of a bylaw you no longer have to pay taxes,

it means that somebody else has to pay more for local services — as long as we're completely clear on that.

**Mr Tony Clement (Brampton South):** Mr Gerretsen's remarks were provocative in a positive sense. I agree with his sentiment about how broad the tax base should be to be fair to everyone. But I disagree with him that we are being inconsistent in allowing this body, the National Ballet of Canada, to seek some redress from the local municipality.

We've said all along that local decisions should be under local control and that there are certain matters relating to taxation and accountability that should be determined locally, not by the province of Ontario or by provincial statutes. That is why we are uploading certain aspects that we feel we have to be responsible and accountable for on to the provincial tax base and referring back to municipalities things that should be accountable at the local tax base.

I would say to Mr Gerretsen I share his concerns. If I were a city of Toronto councillor I would voice those concerns because that is, in my view, the appropriate venue for this discussion to take place. If the city of Toronto council wants to order its affairs and tax its citizens in a way that is incorrect or wrong or somehow unjust, they should be the ones who are accountable to the citizens for that and I would encourage them to be so. But I agree with your sentiment.

**Mr Gerard Kennedy (York South):** Just to elaborate, we are facing similar circumstances and we will time after time in this case. I think the tax expenditure part is important. I think accountability is going to have to be brought to bear. As somebody who ran a non-profit organization, I can't overestimate the importance of what measures like this mean. This means ongoing costs are reduced and that has a direct bearing on the viability of any non-profit organization with variable revenue, especially with a dependence on private donations and so on. Therefore, if someone is determined to be helpful, this is a good way to be helpful. However, particularly with an organization of the stature of the National Ballet, there need to be some coherent policies around support for international stature organizations like this that I don't think should be dependent on the whimsy or the ability of local municipalities to provide.

This is a substantive grant. I don't know the overall budget, but I can tell that this would be a substantive amount of money and I think we have to try, in this committee perhaps, to create some locus of pressure for some policymaking around this. We will all want to be in the position to assist important objectives like those of the National Ballet and the other groups we're going to hear from, but we're doing this in a fairly haphazard fashion and I wonder where the province is really going to express its fulsome support.

Municipalities, in my experience, don't really have a lot of choice. They've got a lot of other examples, and if I look at the calendar, we're going to have a lot more groups that will choose, perhaps be influenced by, the existence of this potential exemption to purchase their land rather than rent it because of course there is that problem. Groups that rent land or property or buildings to conduct their charitable, non-profit or cultural activities



don't have access to this kind of exemption and still pay their taxes to their landlord, and it simply isn't a consistent means by which we should be doing it.

I'm not advocating at all that we close this loophole or end this practice. I think we should continue it, but we really should come to grips with what it means in terms of support that's available. We are enhancing a variable level of support to different kinds of groups in doing this, those groups that can afford to capitalize their assets rather than rent them.

It's very, very important. It makes a heck of a difference to the ongoing viability, but we need to have something coherent around policy. I don't think we're offering much to the people of Ontario by way of accountability and I don't think we're offering a lot to the non-profit groups except hoops they've got to jump through to get there. I'd like to see if we can't develop some of that perspective, if not in this committee at least through the minister who has represented this most often.

**Mr Joseph Spina (Brampton North):** Just to address a comment Mr Kennedy made, the only reason groups like this have to go through the hoops he and some of the others described is because the province historically has taken such a top-down attitude in trying to run everybody's business. Here we are trying to bring the accountability that Mr Kennedy talks about to the municipal level, and the municipal government is obviously prepared to take this responsibility, therefore I have no problem with the province standing back.

The only reason we're being asked to bless this, and for lack of a better way to describe it, is because the province has always taken this top-down approach. We are trying to devolve the responsibilities from the province to give the municipalities more autonomy to better serve and meet the needs of the services within their constituency.

In the case of Toronto, if it's the National Ballet or what's coming up later on from Niagara Falls, then those municipalities are in a position to meet the needs of their constituency and there's no reason why the province should get involved and stick its finger in it.

Hopefully, once we change some of the legislation regarding responsibility, as is in the process right now, then these people won't have to go through hoops and come to a committee hearing like this other than just going to their own city council to seek the approval they require.

I just make my comment in that regard. I think that rather than have a province-wide policy, the province-wide policy is that a municipality has the responsibility as it sees fit.

**Mr Bisson:** I wasn't going to jump back in again, but after that comment — we all have our points of view and parties represent different constituencies and different points of view, and I disagree with what you've just said.

As I said earlier, I believe that the federal and provincial governments or senior levels of government do not only have a financial responsibility to make sure these groups are properly funded and do their own fund-raising and the work goes on in communities as far as charitable work is concerned; what is really happening here, in my view, is that it's another example of municipal download-

ing to a certain extent. You're saying the municipality should be responsible for doing this kind of stuff. Yes, they have a responsibility. I don't say that the city of Toronto, Metro city hall or the school boards don't have some stake in this, because they benefit as well from the activities of these individuals and what they're doing.

But I say again, and I want to put it on the record as the representative of the New Democratic Party, I believe it's important that the provincial government set a policy that does two things: (1) it deals with this issue from a provincial policy standpoint, and if we're going to adopt a policy by which we're going to enable municipalities by their choice to assist these groups by reducing or eliminating their taxes, that's fine, but we should have a consistent policy by which we do that to simplify the process.

(2) I think that senior levels of government have a responsibility. I'm getting concerned that both levels of government, the federal and the provincial levels, and this is not to be partisan, are withdrawing themselves because of economic reasons and ideological reasons from supporting groups such as this that do very important work in our communities. I, for one, don't stand for that and I want to put it on the record.

1030

**The Vice-Chair:** Any further discussion? If not, are the members ready to vote? Yes. Shall section 1 carry? Carried.

Any amendments to section 2?

**Mr Shea:** I move that subsections 2(3) and (5) of the bill be struck out and the following substituted:

"School board

"(3) If a bylaw is in force under subsection (1), a school board entitled to share in the assessment of the land for school purposes may by resolution direct the city to cancel the taxes payable on the land for the purposes of the board.

"Further cancellation

"(5) When the city receives a resolution of a school board passed under subsection (3), it shall, by bylaw, cancel the taxes directed to be cancelled by the resolution."

**Mr Bisson:** I have just one question. I'm looking for my copy of the bill. All right. I've answered my question. Under the definitions, "city" does mean Toronto. That's all I wanted to make sure of.

**The Vice-Chair:** Any further discussion on the amendment? If not, shall the amendment carry? Carried. Shall section 2, as amended, carry? Carried.

Shall section 3 carry? Carried.

Shall section 4 carry? Carried.

Shall section 5 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the schedule carry? Carried.

Shall the bill carry? Carried.

**Mr Shea:** We assume 6 and 7 are carried.

**The Vice-Chair:** We missed sections 6 and 7.

Shall section 6 carry? Carried.

Shall section 7 carry? Carried.

Shall I report the bill, as amended, to the House? Yes. Thank you.



**Mr Shea:** Chair, I thank very much the representatives of the National Ballet of Canada, the premier ballet company of this nation, and wish them well.

**Mr Pitblado:** On behalf of my associates who are here and those who aren't here, I would like to extend our heartfelt thanks to all of you for your support. We appreciate it very much.

#### YOUNG WOMEN'S CHRISTIAN ASSOCIATION OF NIAGARA FALLS ACT, 1997

Consideration of Bill Pr80, An Act respecting the Young Women's Christian Association of Niagara Falls.

**The Vice-Chair:** The next bill we have to deal with this morning is Bill Pr80. Mr Hudak, are you presenting on behalf of Mr Maves?

**Mr Tim Hudak (Niagara South):** Yes, I am. I'm joined today by Bernice Mowat, the past president of the YWCA of Niagara Falls, and Sandy McIntyre, the general manager of the YWCA. With your permission, I'd like to read in some remarks from Mr Maves, who regrets that he is unable to join us this morning.

**The Vice-Chair:** Go ahead.

**Mr Hudak:** Thank you. Mr Maves says:

"I am pleased to sponsor Bill Pr80, An Act respecting the Young Women's Christian Association of Niagara Falls. This act had first reading on May 29, 1997

"This act would give the city of Niagara Falls the authority to pass bylaws cancelling municipal taxes paid by the YWCA of Niagara Falls. As you will find in the compendium, the group has already received support in writing from the city of Niagara Falls, the Niagara South Board of Education and the Welland County Roman Catholic Separate School Board.

"I want members of the committee to know that this bill should not be taken lightly. I don't believe that every charitable group who requests something similar should automatically get this committee's approval. Support should only be given in special circumstances where the group provides an invaluable community service and where this service is in jeopardy because of financial hardship.

"The YWCA provides a much-needed women's shelter in our community, but this operation has been placed in jeopardy by its heavy property tax burden. To assist in its financial restructuring, the YWCA has volunteered to an audit by a private sector firm which has agreed to provide the service gratis. This audit will help the YWCA to find further operating efficiencies."

I introduced the individuals already. Shirley Carr, a board member, was unable to make it today.

That concludes the remarks from Mr Maves, who passes on his regrets that he had another scheduled obligation this morning and has asked me as his neighbour and his colleague to sponsor the bill. I believe Ms Mowat has some further remarks to make.

**Ms Bernice Mowat:** Mr Chairman, committee members, thank you for this opportunity to speak on behalf of YWCA of Niagara Falls.

The Young Women's Christian Association of Niagara Falls is an 85-year-old charitable organization of concerned volunteers and staff. We emphasize the all-round

health and wellbeing of women and children. We do this by providing a welcoming and supportive atmosphere where all women and their families have equal access to programs and services. We accomplish our objectives through linkages with various other agencies.

Our residence is staffed 24 hours a day. Sometimes the counselling in the middle of the night is the most urgent. This is also the time when other agencies, such as the police, come to us for emergencies as most help agencies are closed. Most of our residents are single. Many are teenagers and, thanks to the new government regulations, must attend school to receive welfare. This has enabled us to emphasize training in all areas of life skills: meal preparation, budgeting and personal hygiene. Of course, no drugs or alcohol are permitted on the premises. We lock our doors at 10 pm and the staff answer the bell until morning. For many who have been abused, this security is very comforting.

We have seen an increase in mothers with children. They are helped back into the community, usually within a month or two. However, there are exceptions. Carrie and her son Jason stayed nearly a year and a half, both attending school, and upon completion Carrie was able to find employment, allowing them to move into their own apartment unassisted. That's a hand up, not a handout.

Four years ago, we found ourselves in financial difficulty. We used all our resources and had to make some drastic decisions. We eliminated several staff positions and the board of directors took a hands-on approach to financial management. At that time we asked the city of Niagara Falls to be patient with our payment of taxes, as we were in arrears. That is when the city suggested that we be relieved of paying taxes. That is how this all started. Incidentally, the YMCA has not paid taxes in Niagara Falls since the early 1950s.

#### 1040

However, our mandate differs from the YMCA. Although we do have fitness programs, volleyball, slow-pitch and golf leagues, support for families remains our greatest concern. Our children's programs are linked with other social agencies to be sure the most needy are being served. We run parent training sessions, called Parent Link, which may include behaviour management, nutrition and even quitting smoking, or any need the parents identify. We have integrated handicapped children for over a decade. We also have an adult program for handicapped adults of both sexes, managed by knowledgeable volunteers. This is one of the areas where our residents are expected to volunteer as part of their community outreach training. They also help at the area food bank.

Most of our residents and families are referred from other agencies — FACS, hospitals, housing help centres, women in crisis, police, school guidance counsellors etc.

I'd like to tell you about a case that we are dealing with at the moment. Karen, not her real name, came to live in our residence, being in the care of FACS. She's a hyperactive, learning-disabled 16-year-old. She is on medication for her condition but is still flying low most of the time. She requires nearly constant attention and reassurance. Karen has been in foster care and is still friendly with her foster mother, but she became too



difficult to live with and the YWCA of Niagara Falls has become her home. FACS rules and ours say she has to go to school. School is not a pleasant place for her and FACS has threatened to close her case. We will be left as her only support.

We also work with Niagara College, John Howard and others when requested.

The per diem in the local psychiatric ward is a minimum of \$500. Often patients operate a revolving-door plan with the hospital. When the hospital asks us for residential care, it usually requires close monitoring of medication as well as training in other areas of life skills. Our per diem cost before revenue is approximately \$31, thus saving thousands of dollars, to say nothing about the savings in human terms. Giving mothers and fathers the supports and skills required for parenting while the children are still at a developmental level makes for a better community, to say nothing of the savings of taxes at all levels of government.

The city of Niagara Falls, the Niagara region, the Niagara school board and the Welland county separate school board all at one time or another have referred people to our programs and agree that we should be relieved of our taxes. These are the links with the community helping itself.

I wish to ask for your support with respect to the proposed legislation before the committee and I'd be pleased to answer any questions.

**The Vice-Chair:** Thank you. Do we have anyone in the audience wishing to make comments? If not, Mr Shea, as the acting parliamentary assistant, do you have any comments on behalf of the government?

**Mr Shea:** I appreciate the excellent presentation. The government has no objections. Again, I exercise the caution that with the Who Does What exercise and the restructuring of municipal finances there may be changes in the future, whatever they may be. Whatever is decided today is determined by future legislation. But in this regard and in terms of the application, the government has no objection.

**Mr Gerretsen:** You made a comment to the effect that the YMCA has not been paying taxes in Niagara Falls since when?

**Ms Mowat:** Since 1953.

**Mr Gerretsen:** I assume that at that point in time they had similar legislation like this passed, as far as you know.

**Ms Mowat:** Yes, that's right, except at the time the council didn't know why they weren't paying. They thought it was because they were in a low-rent district, but then when they looked it up they realized they actually had come to Parliament.

**Mr Gerretsen:** How much are your taxes annually? What are you paying?

**Ms Mowat:** Between \$8,000 and \$9,000.

**Mr Gerretsen:** How many years are you in arrears?

**Ms Mowat:** We were in two years' arrears at the time. They've held off charging taxes until — this is retroactive, I believe.

**Mr Gerretsen:** I know. That's what I was getting at. You only want it to be retroactive to January 1, 1996.

The National Ballet association wants it to be retroactive to some time in 1995. I'm wondering why you didn't go back further than that either. The city wouldn't have liked that very much, I imagine.

**Ms Mowat:** Frankly, we want to do this ourselves if we can. We're charitable but we're responsible.

**Mr Gerretsen:** I understand.

Just a couple of questions about the residences you operate at the YWCA. I think they're tremendous institutions to provide accommodation for people in need sometimes. I think they're all over the province that way. How many residential units do you have? These are rooms, are they?

**Ms Mowat:** Yes. We provide for 18 adults at a time. We have extra beds in the room. However — maybe because I was an only child, I don't know — the thought of having to share a room with somebody else who's in trouble didn't sit well with any of us at the Y. We have changed so it's a single room. We can take in 18 residents at a time. If a mother comes in with a child, she can keep her child in her room with her.

**Mr Gerretsen:** Is it only emergency shelter or can a girl or a woman rent a room for a certain period of time?

**Ms Mowat:** Yes, they can. In the summertime, because it's Niagara Falls, we try to keep a couple of rooms available for transients or tourists. I remember — probably the only one in this room that can remember this far back — that at a time during the war this is where the girls came from Quebec to Niagara Falls to work and stayed at the Y. That's not the kind of person we generally get today. Those people have enough money that they usually have their own apartment or something when they arrive. Also, they'd go to a motel now.

**Mr Gerretsen:** I'm a great supporter of the YMCA and the YWCA and I think if the government feels the way it does, perhaps it should take some of the tax revenue it gets out of that new casino and put it into supporting organizations like yours to make sure that people that are vulnerable are protected.

**Ms Mowat:** We'd accept it.

**Mr Gerretsen:** I'm sure Mr Shea will move that as soon as we're finished all the questions.

**Mr Shea:** You won't live off the avails.

**Mr Gerretsen:** You've been doing it.

**Mr Shea:** Don't look at me, kiddo.

**The Vice-Chair:** We won't get into this discussion this morning.

**Mr Tony Martin (Sault Ste Marie):** Who funds your organization?

**Ms Mowat:** The girls of course pay. If they're on welfare, they pay room and board. We get about \$35,000 a year from the United Way. The city of Niagara Falls has been giving us a grant of nearly \$90,000, although I suspect that if we get our taxes paid that will go down. That's it. The rest we have to make up every way we can.

**Mr Martin:** There's no provincial funding at all?

**Ms Mowat:** No. Well, pardon me, we do have a resource centre for the children that is funded for about 15 hours a week and they help pay for part of the rent. That's the only program. It's a very small program.



**Mr Martin:** Are you finding that the sources of funding you traditionally have relied on are beginning to dry up?

**Ms Mowat:** Everybody's asking for help today. We have bingo. We have break-open tickets. We made \$450 last weekend on a garage sale. In terms of taxes, that's a lot of garage sales. However, we're working on it.

**Mr Martin:** We have in our community a growing number of organizations that do excellent work in various and sundry ways that are finding themselves in the same difficult financial position. I know they've been before city council asking for exemption from property taxes because of the pressure that's being put on everybody. The municipalities are having their own difficulties in trying to make ends meet and balance their budgets because of the downloading by the provincial government on to them of the cost of more and more services.

I don't want to repeat what my colleague Mr Bisson from Timmins said awhile ago but we have here exactly the same situation and a government that in this way now is downloading the cost of services that are very valuable and in some instances essential to the wellbeing of communities and the people who live in communities. I think it's unfortunate that we're dealing with it in this way, and again I would make an appeal to the government to find another way of dealing with organizations such as the YWCA and the National Ballet company, and in my community, the Legion and the Marconi Club. There are so many other very valuable and good organisations that are finding themselves in difficulty paying their way and would love dearly to get out from under having to pay their property taxes.

As has been said before, when you do that you then spread the cost of running a community more on to the shoulders of those who are left paying that particular tax. I don't think we can say often enough that that's going to cause us all some grief and difficulty down the road. I'm going to support this because it's the only way we have of forcing this government to do anything to assist groups such as your own and the very valuable work that you do. I would strongly urge the government to take a look at what they're doing and the impact that it's having on the lives of some of the most vulnerable of the people who live in our communities across this province.

**Mr Shea:** We could now bandy about a political diatribe for the next hour or two. That's not going to be particularly helpful at this juncture because I am more concerned, on behalf of the government and the government caucus, to ensure that we deal with this matter as government has been dealing with it for years, Mr Martin, and that includes when your party was briefly in power. The fact is that there was no change then. There has been no downloading on the YWCA or the YMCA. That's total baloney.

**Mr Gerretsen:** So you agree there has been downloading on municipalities then?

**Mr Shea:** I'm concerned that we continue to deal with this and I will suggest to you that the government has

indicated it will make a very concerted effort to ensure that as part of the tax restructuring it will be addressing this matter, a matter that probably should have been addressed years ago. But this committee has been through these waters over the last couple of years, saying we've got to get at it. We have assurances from the minister that is being reviewed and we have assurances that will be coming forward in the fullness of time.

In the meantime we continue to deal with this in a traditional fashion. I, like you, would like to see it streamlined so indeed we don't have to go through these hoops all the time, but for today I certainly hope we will indeed do the right thing and approve the legislation that is before us. It carries the support of the local council. Indeed, if memory serves me correctly, it was representatives of the local council that suggested this may be the way to proceed and asked the deputants if they would proceed in this fashion so they could give the municipality the opportunity to forgive the taxes. They want to do that. I think it is appropriate for this committee to do that. I'd like to see us get this on the track and vote on it.

**Mr Kennedy:** Just very briefly, I think it's very important to save hard-pressed, non-profit groups from the risk of excessive political rhetoric, and we'll do that. We wish you well with this and certainly are going to support it. We wish for a better climate in terms of the operations of YW and hopefully we'll hear that this has been beneficial to that.

But we would add our voice briefly: If the government is sincere — and I have no reason to believe it is not, as Mr Spina and Mr Clement have expressed — that's the legislation that allows municipalities to deal with this in their communities and it doesn't bring groups like this to have to add the burden of a trip to Toronto and our other discussions to their agenda as part of their operation.

**Mr Gerretsen:** You didn't come with a lawyer. That's good.

**The Vice-Chair:** Any further discussion? If not, are the members ready to vote on Bill Pr80? Can I have the authority to collapse sections 1 to 10 under one vote, as there are no amendments? Agreed. Shall sections 1 through 11 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the schedule carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

**Mr Hudak:** Chair, I think Ms Mowat has some final remarks.

**Ms Mowat:** I just wanted to say thank you to everyone for your time because yes, it's hard getting in here every morning, but you have to do it every day, so I appreciate that very much.

**The Vice-Chair:** Thank you very much. Since there's no further business, we're adjourned until next Wednesday at 10 o'clock.

*The committee adjourned at 1054.*



## CONTENTS

Wednesday 11 June 1997

<b>National Ballet of Canada Act, 1996</b> , Bill Pr64, <i>Ms Bassett</i> . . . . .	T-213
Mr Derwyn Shea	
Mr Jim Pitblado	
<b>Young Women's Christian Association of Niagara Falls Act, 1997</b> , Bill Pr80, <i>Mr Maves</i> . . . . .	T-217
Mr Tim Hudak	
Ms Bernice Mowat	

### STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

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Mr Carl	DeFaria (Mississauga East / -Est PC)
Mr John	Gerretsen (Kingston and The Islands / Kingston et Les Îles L)
Mr Ernie	Hardeman (Oxford PC); parliamentary assistant to the Minister of Municipal Affairs and Housing
Mrs Helen	Johns (Huron PC)
Mr Gerard	Kennedy (York South / -Sud L)
Mr Tony	Martin (Sault Ste Marie ND)
Mr Tony	Ruprecht (Parkdale L)
Mr Derwyn	Shea (High Park-Swansea PC)
Mr Frank	Sheehan (Lincoln PC)
Mr Bill	Vankoughnet (Frontenac-Addington PC)

**Substitutions present / Membres remplaçants présents:**

Mr Joseph Spina (Brampton North / -Nord PC)

**Also taking part / Autres participants et participantes:**

Ms Linda Gray, Ministry of Municipal Affairs and Housing

**Clerk / Greffière:** Ms Rosemarie Singh

**Staff / Personnel:** Ms Laura Hopkins, legislative counsel



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T-21

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**Official Report  
of Debates  
(Hansard)**

Wednesday 18 June 1997

**Journal  
des débats  
(Hansard)**

Mercredi 18 juin 1997

**Standing committee on  
regulations and private bills**

**Comité permanent des  
règlements et des projets  
de loi privés**



Chair: Toby Barrett  
Clerk: Rosemarie Singh

Président : Toby Barrett  
Greffière : Rosemarie Singh



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LEGISLATIVE ASSEMBLY OF ONTARIO  
STANDING COMMITTEE ON  
REGULATIONS AND PRIVATE BILLS

Wednesday 18 June 1997

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO  
COMITÉ PERMANENT DES RÈGLEMENTS  
ET DES PROJETS DE LOI PRIVÉS

Mercredi 18 juin 1997

*The committee met at 1005 in committee room 1.*

ONTARIO ASSOCIATION OF NOT-FOR-PROFIT  
CREDIT COUNSELLING SERVICES ACT, 1997

Consideration of Bill Pr82, An Act respecting the Ontario Association of Not-For-Profit Credit Counselling Services.

**The Chair (Mr Toby Barrett):** Good morning, all. Welcome to this regular meeting of the standing committee on regulations and private bills. You have your two-page agenda; we have four items of business today.

Our first order of business is Bill Pr82, An Act respecting the Ontario Association of Not-For-Profit Credit Counselling Services. The sponsor is MPP Bruce Crozier. Mr Crozier, do you wish to say a few words by way of introduction? Then perhaps the applicants would wish to introduce themselves.

**Mr Bruce Crozier (Essex South):** It's a pleasure for me to be here this morning with some friends and acquaintances to sponsor this bill. In studying the bill, I did notice, though, that the title has a misspelling in it. I assume someone else has also noticed that the word "Conselling" should be corrected to "Counselling." With those few words, I will introduce you to John Curran, the president.

**Mr John Curran:** The role I will play is merely to introduce those who are here to make presentation and some people in the gallery who are here to support the application.

On my immediate left is our legal counsel, Gregory Stewart, and to his left is the executive director of our association, Patricia White. In the gallery this morning we have some of the members of our board of directors: vice-president-at-large Ed Helder; board member Ruth Hall — she was trying to find a parking spot, which is not an easy thing around here, and she may not be in the room yet, but she will be joining us; and Ann Rowan, who was a former staff member of the Ministry of Consumer and Commercial Relations for 19 years. She was just elected to our board of directors. She's back here beside Ed. Also on our board just recently, but not with us today, is Chris Ferguson, the registrar for the Collection Agencies Act under the Ministry of Consumer and Commercial Relations. His duties dictated that he not be with us this morning.

I appreciate the opportunity to appear before you this morning. I would ask our solicitor, Mr Stewart, to make the presentation from this point.

**Mr Gregory Stewart:** By way of background and a bit of information concerning the legislation, the area of credit counselling is something that is of concern and is a growingly critical service across the province.

The history of this particular association goes back to the early 1960s when it developed in Toronto to assist former air force personnel who were experiencing financial problems, to help them to review their problems and find some organized way to deal with those issues.

The service itself grew over a period of years, eventually involving the support of provincial and federal funds in the 1970s. As the financial support for the associations grew, the number of agencies grew, reaching 25 at one point, and up to this point now 27 individual agencies.

The need for this particular legislation began to show itself in the early 1990s when, you will recall, at that point the government of the day withdrew funding for not-for-profit credit counselling services. At that time, to assist in the continuation of the operation, however, the government amended the Collection Agencies Act by adding the credit counselling association and its members as a list of accepted entities under that particular legislation, the legislation indicating that it applied to certain agencies and entities with the exception of a specific list, one of which is this organization.

This allowed the organization to continue to manage and to set up trust funds, giving that power to the Ontario Association of Credit Counselling Services, which was a chartered non-profit corporation.

The concern that arose over time, however, is that from that point, the existence of the association arose more from being an exception to a piece of legislation rather than being positively reflected in a particular piece of legislation. As a result, there's been a desire on the part of the association to formalize themselves in statute, and this led to the development of this particular legislation. They would not want to, in the future, exist on the basis of an exception, or I guess a negative existence, as the result of the fact that the legislation indicates that you have your authority because you don't come under this piece of legislation.

They are concerned, in developing this legislation, that they be able to entrench and to distinguish the not-for-profit element, having it become visibly mandatory, in that this particular association has as its prime characteristic, differentiating it from other credit counselling entities, the fact that it is a not-for-profit entity. They wish to make sure that is maintained and protected.

They wanted to enhance their legitimacy as an association. They're growing constantly, and they have been, through their bylaws, going through processes of accreditation in order to have membership. They wanted to enhance their legitimacy for that purpose. They are also concerned that they clearly be distinguished from other credit counselling entities which might develop from



bankruptcy trustee operations or others who are not not-for-profit elements.

They have introduced this legislation to ask you to set into statute their operations, their existence and their objectives. The legislation itself sets out a number of their objects, and these are noteworthy. They are concerned about being able to continue to offer not-for-profit credit counselling throughout the province to residents. They're concerned about being able to establish and to continue to implement province-wide standards for those who are given accreditation and allowed to use the designation not-for-profit credit counselling agency.

They want to be able to carry out their work with a unified voice and to provide the appropriate training and education and body of knowledge in an organized fashion so that it's available and so that all those holding themselves out as not-for-profit credit counselling entities have a basic standard, not only of accreditation, which is spelled out in their bylaws and requirements, but also an assurance that there's a basic body of knowledge and information and practice available to them, so when citizens in the province approach a not-for-profit credit counselling agency they are approaching a standard form of entity and can be assured of a minimum standard of practice throughout the province.

We are approaching you today with this legislation asking that you give some consideration to it and asking that the Ontario Association of Not-For-Profit Credit Counselling Services be granted statute authority so they can continue their work and have the assurances I've just addressed.

I believe that's about all I need to say on it. I'd be happy to answer any questions.

**The Chair:** Before we go to questions, are there any other comments from the applicants? Are there any interested parties who wish to speak to this bill? Seeing none, I would now ask MPP Ernie Hardeman, parliamentary assistant, municipal affairs, for any comments on the part of the government.

**Mr Ernie Hardeman (Oxford):** In reviewing the bill, the Ministry of Municipal Affairs circulated it to other ministries, and the replies we got back were that no one had any concerns or objections to the bill. That would suggest that the committee give favourable consideration to the bill.

I think one of the points one wants to remember is that the bill does not restrict or impose anything on anyone; it would just work for the betterment of the organization or organizations that will be represented. It's a worthy goal, and I think we should support the bill.

**The Chair:** At this point, I call for questions from committee members to either the applicants or to our parliamentary assistant.

**Mr John Gerretsen (Kingston and The Islands):** Are you aware of any not-for-profit counselling agencies in the province that are not members of your association? Are there any?

**Mr Curran:** No, not to my knowledge.

**Mr Gerretsen:** The other question is more to the parliamentary assistant and more to satisfy my own curiosity. Why does this kind of matter have to go through this kind of routine? Why does there have to be a hearing on this kind of application?

**The Chair:** I think Mr Ruprecht had a similar question a couple of weeks ago. I'm not sure whom I would direct that question to.

**Mr Gerretsen:** Maybe Mr Hardeman has the answer.

**Mr Hardeman:** I don't profess to be a lawyer, so I won't give you the —

**Mr Gerretsen:** That's good for you.

**Mr Hardeman:** Hear, hear. I'm proud of that.

I would suggest that since it is a bill that has to go through the Legislature, it requires an airing, so to speak. It goes through two readings and comes to this committee for discussion, and then it will go to the House for third reading. If you want to create a statutory body by legislation, you do that through private bills. That's the only way you can create a legislative authority to monitor all organizations.

**Mr Gerretsen:** I'll follow this up. Thank you.

**Mr Hardeman:** Mr Chair, I just want to go a little further on the question Mr Gerretsen first posed. The question was whether there were any non-profit counselling agencies not members of the association. I wanted to make sure it's clear that even though there presently are not, this would not obligate all non-profit counselling agencies to be members of the organization.

**Mr Curran:** Just so we're absolutely clear, our response to that was that we are not aware of any who are not members. You're right, there will be no indiscrete restriction of application for membership, but there are requirements that must be met to fall under the membership criteria.

1020

**Mr Tony Ruprecht (Parkdale):** Back on this horse again. I know Mr Hardeman and especially Mr Shea have previously mentioned to the committee that there would be a possibility of streamlining the process. While we are speaking about cutting and mitigating the red tape in government, it seems that every time new people arrive at our committee — in this case, of course Mr Gerretsen is not new, but nevertheless the sentiments are being raised at most of these meetings. Consequently, if possible, I'd like to ask Mr Hardeman, who has been here for at least at three meetings, two questions.

First, would he take it upon himself to look at the structure of the committee and the kinds of the bills we have to deal with? When I look at the appearances today — I'm also looking at the Chinese community centre, which is going to be here as well. Many of the applicants or deputants would not necessarily be required to appear here had we instituted some framework whereby some of the applicants would not necessarily "waste their time." I put that in quotation marks, and by that I mean that many of them come from outside Toronto and spend hours of travelling time and that time of course is less productive, simply because we're not following up on our own recommendations of this committee. I just wonder whether Mr Hardeman could address that fairly briefly so that I and my colleagues would be somewhat satisfied that necessary steps are being taken to cut down on government red tape and the process of streamlining could go ahead full speed.

**Mr Hardeman:** I won't take a long time. Although I have been here for a few meetings, a very few, I was not



aware there was an ongoing process to try and streamline the system, but I assure you we will follow that up and try to find ways of doing that. But in so saying, I would caution — I have here a report that was done on a similar application for a different type of organization in the past, and though everyone around this committee may have agreed and the applicant agreed that this was a good thing and it seemed like a natural thing to do, when the time came for the meeting, two other organizations in a similar situation came in to object to that. That one did not proceed.

By short-circuiting the process, we may very well eliminate the ability of others on whom this bill may have an impact to be involved in the process. When the applicant finished their presentation, the Chair asked whether there was anyone else present wishing to speak to the bill. I think it's important that we don't streamline the process to the extent that those who did come in to speak, who may be on the opposite of the bill, are not deprived of that opportunity.

**Mr Ruprecht:** I'm not saying we get ourselves out of our jobs or that we discontinue this committee. It's simply to say let's review this, let's have a look at what is essential and what is not, so at least if some of them do not have to appear here, let's not have them come.

**The Chair:** Is it the wish of committee members that we review this? Is it appropriate to put this on the agenda of a subcommittee meeting? Are members interested in submitting suggestions or recommendations to either streamline or eliminate, whatever options are appropriate for this work?

**Mr Hardeman:** I can make a motion to that effect. I would think we would have no opposition from the members.

**Mr Derwyn Shea (High Park-Swansea):** Linda, would you advise what stage we're at in terms of legislative recommendations for some of the streamlining changes?

**Ms Linda Gray:** As far as the Ministry of Municipal Affairs and Housing is concerned, the initiative the ministry has undertaken in municipal reform, which the minister has spoken about a number of times, will go a long way, our ministry feels, to eliminating the need for private legislation as it affects municipalities. Our ministry has done a number of things recently to streamline the municipal private bill process, and I think you will find this will improve more in the future.

As far as some of the other bills that don't concern municipal affairs and housing directly, a subcommittee might be useful to look at those issues as well.

**Mr Ruprecht:** I could make a motion.

**Mr Hardeman:** I'm not sure a motion would be required, but I would suggest that the subcommittee look at streamlining the process. As Ms Gray pointed out, the streamlining we're doing in the Municipal Act will not deal with the individual applications coming before us. There will be far fewer, but there still may be a need to look at how we streamline the ones that still come to this committee.

**Mr Ruprecht:** So let's do it?

**Mr Hardeman:** Yes.

**Mr Ruprecht:** Okay, when are we going to do it?

**Mr Gilles Bisson (Cochrane South):** I just wondered when we're going to pass this particular private bill.

**Mr Hardeman:** Mr Bisson, are you making the assumption that it's going to pass?

**Mr Bisson:** I'm assuming we're going to be giving support to this bill and I would like to get to that business. I'm actually thinking of invoking closure here.

**Mr Ruprecht:** I think you'll be in a minority.

**The Chair:** Mr Ruprecht, do you want to quickly summarize what you would perhaps like to direct the subcommittee to do?

**Mr Ruprecht:** Simply if the subcommittee would have a look at how to streamline the process so that some of the applicants on some of the private bills consequently do not have to appear before this committee.

**Mr Shea:** Just a question, Mr Ruprecht. What applications in particular do you want to see streamlined?

**Mr Ruprecht:** As you know, when the next deputant appears before us, you will find that there have been about eight or 10 of them appearing before this committee. That certainly could be either eliminated or it could be handled in a different way so that our time would not be wasted and people would not have to come here from other parts of Ontario to make deputations. At least that's one that sticks you in the eye. There are a number of other ones. I don't have the specifics in front of me, but certainly with your experience you would know what they could be. There is a potential for it and it would be in all of our interests that that be done.

**Mr Shea:** For the record, it doesn't show the next one. I presume Mr Ruprecht was referring to Pr83. Does he believe that Pr83 is a reasonably pro forma application and not deserving of a public hearing?

**Mr Ruprecht:** Yes, I think that could be done in a different way.

**Mr Shea:** That answers my question.

**The Chair:** Does this close discussion on this recommendation? Thank you.

Going back to Pr82, we've completed questions on this private bill. Are the members ready to vote?

We are voting on Bill Pr82, An Act respecting the Ontario Association of Not-For-Profit Credit Counselling Services, sponsored by MPP Bruce Crozier. In keeping with tradition, we collapse sections.

Shall sections 1 through 14 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

I declare this first order of business closed. I wish to thank the applicants and the sponsor.

1030

#### CITY OF HAMILTON ACT, 1997

Consideration of Bill Pr51, An Act respecting the City of Hamilton.

**The Chair:** The next order of business for this committee is Bill Pr51, An Act respecting the City of Hamilton. The sponsor is David Christopherson, MPP. We have the sponsor and the applicant now at the witness table. Mr Christopherson, a few opening remarks, and then we will have introduction of the applicant.



**Mr David Christopherson (Hamilton Centre):** I appreciate the opportunity to present Bill Pr51. In a nutshell, the Planning Act currently restricts the ability of municipalities to provide loans and grants for community improvement areas to only the owners of the buildings. We've run into a situation in our community where we have commercial long-term leaseholders who are not able to access these funds because the property owner doesn't want to take on the liability of such a loan, yet that tenant is prepared to. The municipality of Hamilton is requesting an amendment to the Planning Act that would give them the jurisdiction to provide similar loans and grants for community improvement areas to tenants as well as to the property owners.

To give you a more detailed and legal presentation, I'll turn it over to Mr Lorne Farr, who is a solicitor with the city of Hamilton.

**Mr Lorne Farr:** Mr Christopherson has summed up the bill quite well. The current Planning Act, in subsection 28(7), allows a municipality to give loans or grants to the owners of lands registered within a community improvement area for the purposes of meeting the community improvement plan and rehabilitating their buildings. We've run into many situations through our building department where tenants within the community improvement areas have inquired about loans and would like to enter into loans or grants with the city to fix up their leasehold tenancies, but under the act we're restricted from giving them the loans or grants under section 28. The purpose of the bill is that it would allow us to make amendments to our community improvement plans to allow loans to the tenants.

**The Chair:** Thank you, Mr Farr. Are there any interested parties in the room? Seeing none, we will now turn to the parliamentary assistant to the Minister of Municipal Affairs for comments.

**Mr Hardeman:** I think the applicant has said it all. We have circulated it to the ministries within the government and all the replies we received back were that they could see no problem with doing that. So the government will register no objection to the bill.

**The Chair:** A question from Mr Gerretsen.

**Mr Gerretsen:** Just a general question to the parliamentary assistant. Has there been any thought given in the ministry to extending this to the Planning Act itself; in other words, change the Planning Act to allow these kinds of loans to take place to tenants rather than owners?

**Mr Hardeman:** I can't say that the ministry has concluded that that would be an appropriate approach, but it is looking at it. We see that the need to fund community improvements is there, and to charge it to the appropriate people — we see this as a good pilot project that could very well be a template for future use throughout the province under the community improvement process.

**Mr Bisson:** Just a quick question. This would be the first time that the committee grants this power to municipalities that I can remember. Has any other municipality ever been granted similar powers up to now?

**Mr Hardeman:** I would be unaware of that. I couldn't say that it has never happened. I think we see it as a next-step approach to doing the community improvement

and then assessing the cost back to the people in the community. This will allow the community to come up with the money.

**Mr Bisson:** It just shows that Hamilton is once again leading the way.

**Mr Shea:** A question to the parliamentary assistant, and then I may ask Mr Farr the same question. I want to focus on section 28. I have some questions about that in terms of this proposal.

I can understand when the municipality wants to lend money to the owner of property, because you then have something against which you can levy the charges to ensure the taxpayers of that municipality get their money back. If it is proposed that the money is loaned to tenants, Mr Hardeman, I'd like your answer in terms of how one secures that loan. Is that loan granted with the consent of the owner or not, and if not, is it left entirely in the hands of the municipality to determine that it will make that loan in the interest of the municipality? And where does that leave the security of the loan, particularly if tenants are moving? We've heard Mr Christopherson tell us on a number of occasions of a great turnover of tenants all the time in this province. What happens in that regard in terms of securing the loan of the municipality?

**Mr Hardeman:** My understanding is that the municipality that would put out the loan would have to make a decision on the type of security they required to secure the loan. That would not be a security on the premises that the tenant does not own; it would have to be a security on assets of that tenant within that structure or it could be on assets of the tenant elsewhere. As a private loan, you would go to the municipality, as opposed to the bank, and the manager would say, "What assets do you have that we could put a lien on for this loan to make sure we recoup the money?"

**Mr Shea:** So the loan must be secured. In your mind and in terms of your ministry, the loan is secured in so far as the taxpayers and the municipality are concerned?

**Mr Hardeman:** Yes. I think from our ministry's point of view, we see the municipalities having the responsibility to retain security from the owners. We see that they would be quite capable also of securing that security from tenants as they loan money. If they are going to put out a loan, it would be as any other financial institution putting out that loan. They would have some security before they would agree to the loan.

**Mr Shea:** Are you persuaded the legislation before us does that? Are you persuaded the legislation before us requires the municipality to ensure that before loans are made, those who are receiving them are able to provide the security necessary?

**Mr Hardeman:** I'm not sure that I could say this bill does it. I'm saying that the judgement will be made by municipalities with their taxpayers' money. I'm convinced that municipalities would secure the assets before they put the money out.

**The Chair:** Mr Christopherson.

**Mr Shea:** I'm not finished with the parliamentary assistant, just for a second, and then I want to go to Mr Farr. Let me just finish that for a second, because I know Mr Christopherson may well be able to yield.

The last part of your question left it open. You're saying the municipality may make grants to improve



property over which it has no ownership, it may make grants to tenants who live in that property, and that grant may not necessarily be secured and the money may not be returned to the taxpayers. I just want to make sure I'm very clear that's the case.

**Mr Hardeman:** I think maybe you misunderstood my answer. There is a vast difference between a municipality giving grants and a municipality putting money out on a loan. I think the municipalities already have the ability to grant wherever they see fit with no return on their money. This is so they can lend money out and have the authority to secure assets to balance that loan.

**Mr Shea:** I understand that. My point is that at this point you have — let me go to Mr Christopherson, if you don't mind; let me return there. You understand the question I'm getting at?

**Mr Christopherson:** I understand fully.

**Mr Shea:** If I'm the owner of a building and I have some tenants who for whatever purpose say, "Look, I want to repair this," and they go to you and you're a fine mayor of your city, and you say, "Let's help you out here and do the repairs. We're going to give you money to go ahead and do it," with or without my permission, what's the security? What does the ratepayer in that municipality have to ensure that they're being well treated?

1040

**Mr Christopherson:** First of all, I appreciate your strength of memory in terms of my comments vis-à-vis tenants. I would respond by reminding you that one of the things your government purports to believe in strongly is confidence in local government to make decisions. I can't imagine my local council approving any kind of taxpayer money that isn't properly secured.

The whole purpose of this is merely to ensure that tenants, and in this case we're dealing with commercial tenants, have the same access to assistance for community improvement areas that are now granted to the owners. If you give Mr Farr a chance, he may talk to you about some of the specific securities they may seek, but the fact is that a corporation like the city of Hamilton is going to want, for its own fiscal purposes as well as political purposes, to make sure it's properly secured so it can answer to the taxpayers where this money is going to come from if there's a default. I think it's very consistent with what the needs of my community are and I also think it's consistent with the philosophy of your government in terms of how you look at local governments and their role in society.

**Mr Shea:** We both agree on what may be a high tenant rotation. We may agree on the significance of what that means if they happen to be parties to a loan. We both agree that this government does have consummate respect for local authority, and indeed Bill 26 reflects that. I was heartened when you gave from the background of your municipal experience a strong feeling that it would be hard to believe that any municipality would operate without having some security — best practices, if nothing else — on behalf of its taxpayers.

What I'm asking you is, are you persuaded that in the legislation before us there is in fact a requirement that municipalities indeed do that? We're dealing with the very first example that we've ever had of making loans

without any kinds of guarantees of any substance. Should that be in fact addressed?

**Mr Christopherson:** Where I think we differ is that your argument is premised on the fact that the only security that can properly be provided is the actual physical property that's in question.

**Mr Shea:** No, no.

**Mr Christopherson:** I think you heard earlier from Mr Hardeman, and you can hear from Mr Farr, that there would have to be other securities. If they aren't there, if this person is a bad risk, they're not going to get the loan, they're not going to get the grant. The fact of the matter is that in many cases we're dealing with long-term leaseholders who are prepared probably to add their own money to the money they're getting to improve the facility but right now they're restricted because the owner doesn't want to take on the obligation. So I'm satisfied that there is enough provision certainly within the city of Hamilton bylaws and policies that not one dime of taxpayer money is going to go out the door unless there's proper security for it.

**Mr Shea:** Are you persuaded the legislation at least ensures that?

**Mr Christopherson:** Mr Farr, maybe you can help with that.

**Mr Farr:** Similar to what other members have said, on other loans programs that the city of Hamilton now operates with the owners of lands, we take back promissory notes, security in other lands. The building department administers these loans programs and, as members have mentioned, they want to fully secure the loan to prevent any loss to the taxpayer.

It's my understanding and belief that the building department would come up with similar criteria for this type of loan to the tenants. We would require promissory notes, security in other lands that the tenant might own and, as I think Mr Christopherson said, that the tenant will be able to pay the money back to the city. We certainly don't want to be lending money and losing that money, because the city of Hamilton tends to have programs where the money, when it comes back, goes back out to the community again to be redone. So as the money is repaid, other loans are granted to keep the program going.

**Mr Christopherson:** And further, as I understand how this will apply — I'm not a lawyer, but as I understand the wording of the bill as it is now, all it changes is the fact that it's not just the owners that are eligible. So all of the other restrictions and requirements within the Planning Act, I would assume, still apply.

**Mr Shea:** Mr Farr now having responded, we have been wrestling with the issue of security and how that's interpreted, and both Mr Christopherson and Mr Farr have responded to that.

Let me go to the next step and ask the final question. If the landlord — and God knows I've had enough experiences of this in my own municipal experience, where landlords will not agree to do certain things — does not agree, what is the process by which you will simply grant the loans and make sure that work is engaged?

**Mr Farr:** I presume the program will be run similar to the other programs we have right now. The tenant would



make an application to the building department. The premises would be evaluated for what work it requires, again through the building department. The need and the ability to pay would be looked into from the tenant, and then if the loan was granted, documents would be drawn up to secure the loan, as we've been discussing, and then progress would be looked at through the building department inspections, through the building —

**Mr Shea:** So the understanding that you're giving now is that probably the kinds of things that you're talking about in terms of loans would be for purposes of outstanding work orders and so forth. It would not be to go beyond that.

**Mr Farr:** Some of the programs look at property standards issues and other building code issues. One of the programs is to restore certain streetscapes of the city of Hamilton, and that might be a little bit different. It would be to make the improvements to the store, the façades and that.

**Mr Shea:** I understand work orders. I understand all of those, and I understand the needs in terms of the official plan and certain requirements there. There's no difficulty with those kinds of issues.

When you get into the issues of streetscape and/or urban design, you give me the image of a potential where a municipality may develop a new idea, a new concept; the owner is not agreeable to it but they find some tenants who are, and that may be one way for the municipality to give effect to its plan over the objection of the owner. Is that possible?

**Mr Farr:** What you're getting to of course is that if there are major changes to the building, the tenant has to have the owner's consent to do that generally, under most leases. Of course, you wouldn't be able to change a building under a short-term lease or a regular lease unless you had the owner's consent.

I think in many cases the owner doesn't mind the improvements going in, it's just that he or she or it doesn't want to be responsible for the cost of those things over time. Usually they're quite happy that the tenant's doing the work; they just don't want to be paying for it over time.

**Mr Shea:** So the city will pay for it, in the first instance.

**Mr Farr:** You're given a loan or a grant.

**Mr Shea:** And it is repaid in what fashion?

**Mr Farr:** Generally through the other programs. As the member has said, it's amortized over some number of years, over a certain percentage. Monthly payments are made to the city.

**Mr Shea:** Out of rents?

**Mr Farr:** Not necessarily out of rent.

**Mr Shea:** Exclusive of rents?

**Mr Farr:** It would be payment back to the city of a certain amount per month.

**Mr Shea:** The tenants would pay back the city so much per month, exclusive of rents.

**Mr Farr:** Again, the city is not a party to the lease agreement so the rent is not an issue per se. It's not an issue for us. We're just dealing with the loan.

**The Chair:** Mr Hardeman has a response to Mr Shea.

**Mr Hardeman:** I think from my perspective of the bill, it's simpler than what we're discussing now. This

bill gives the municipality the ability to collect money and security from a tenant that they loaned money to. They presently have the ability to give a grant to that tenant if they see fit, and they would not be able to collect it back. This gives them the ability to collect it from a tenant. It does not give them the ability to take as security property that belongs to someone else, which is the landlord. So the landlord would not become responsible for that loan; the tenant would remain responsible for it.

**Mr Shea:** That's very clear.

**Mr Hardeman:** Last but not least, they do not have the power in this bill to attach any liability to the building on a loan that a tenant signed. So there's no connection between the two. If they want to spend all the money on the building on behalf of the landlord, and then leave, the city would not be able to go to that landlord and say, "Would you pay that bill, because the asset is in the building." They would be out the money unless they hold other security.

**Mr Shea:** I think the issue is just a little bit more than that in terms of improvements. If it goes beyond outstanding work orders and so forth, then I think it becomes more than problematic. I think it has some other potentials for concern, at least on my part, but I understand your answer.

I have exhausted my questions.

**Mr Christopherson:** I think we need to focus on the response of Mr Farr. Under the current lease, the tenant can make whatever changes that lease allows and can't go beyond that. Where the money comes from to do that, quite frankly, is of no concern to the property owner. What matters is how much you can do under the lease, and in this case, if the only way to access some money for community improvement from the city is through security of the property, it's stopped if that property owner, for whatever reason, says no. However, this will allow access to those funds to the tenant, but again within the confines of the lease. So if the owner is about to face changes to their building they didn't want, they've got a lease problem, not a financial mechanism problem with the city.

1050

**Mr Shea:** Mr Farr mentioned streetscape, urban design and so forth. It's that scenario that was problematic.

**Mr Christopherson:** I don't think so. I don't think it's problematic.

**Mr Bisson:** Mr Christopherson made one of the points I was going to make, and I think that's important to be able to clarify. The other is that I don't want to put words in the mouth of Mr Shea, but I wouldn't want us as a committee to try to put on tenants who rent buildings any kind of — let me take it the other way. What you're almost suggesting we do here is that if we treat tenants and landlords differently when it comes to how they access loan money from a municipality, if you look at the private sector, when it comes to a tenant going to a bank or a trust company to borrow money to expand his or her business in whatever way he or she sees fit, the loan requirements for a tenant are no different from the loan requirements for the person who owns the building. They want security on the loan, and that's basically what the municipality here would do. They're not able to take the



building, because the building doesn't belong to them, but they are certainly not going to lend the money out without taking some security, on stock they may have, on personal property they may have or whatever other assets they have at their disposition as a business in the event that the business was to go under and the municipality was to try to get the money back.

In the community of the city of Timmins, where we undertook in Schumacher a similar approach to what you're doing in Hamilton, what we tried to do in Schumacher was to get all the people who owned the buildings within a particular street in the downtown core to redecorate their buildings to a certain theme in order to attract tourism to our community.

One of the problems that we had was that most of the people there were tenants, and if you went to the landlord, the landlord had absolutely no interest to participate in the project that the downtown business association wanted to happen, and the municipal council and, I would add, the citizens. It was a big problem. What we ended up with is only certain buildings, a certain part of the community taking part in the program on the basis that landlords had no interest in beautifying that part of the downtown core. What we're asking here is that where you do have tenants who are responsible business owners in a community, who see themselves as a part of the community, give them the same rights as a landlord has when it comes to accessing dollars to be able to do the kinds of stuff that you do in those kinds of projects.

So I would ask that members of the committee support this, because I believe it's not just Hamilton that can benefit by this but many other communities across Ontario, and I'd ask that we support this legislation.

**Mr Gerard Kennedy (York South):** I'd like to congratulate the city of Hamilton for its leadership in this. I think that for cities which have community improvement areas, this is an inimical problem, of landlords who cannot be made part of the consensus to improve. This, I think, is a creative means and a responsible means by which the true stakeholders, the long-term leaseholders, can be engaged. I know it would have applicability in my own riding, and I would encourage municipal affairs to look at this as a broader provision available to municipalities across the province.

In terms of the extent to which we need to be satisfied, I would just quote the inestimable Mr Joseph Spina from last week saying that the government's intention is to devolve responsibility from the province, give the municipalities more responsibility to better serve and meet the needs and services. I believe the equally inestimable Tony Clement made a similar comment.

I'm satisfied that this is the kind of provision that is well within the ambit of the municipalities. I see the city of Hamilton has a community loans program. I'm sure the requirements of that program will be modified to ensure that this is done properly, so I'd like to express my support for this initiative.

**Mr Bill Grimmer (Muskoka-Georgian Bay):** Just a quick question for Mr Farr: I don't see the word "commercial" in the act anywhere and I just wonder, does subsection 28(7) of the Planning Act specifically restrict these kinds of loans to commercial? We've heard "long-

term lease." Does it specifically restrict these kinds of loans to commercial operators who are in a long-term lease?

**Mr Farr:** Under another section of the Municipal Act, section 112 prohibits municipalities from making loans or grants to commercial enterprises if it's in the nature of a bonus. You may have heard that before about municipalities.

Section 28 has a part of it that's an exception to that. If your community improvement plan would be otherwise a bonus, if you get the minister's consent, then it's deemed not to be a bonus under section 112. So to go back to your question, generally we wouldn't be allowed to make a grant to a commercial industry because that would be a bonus. However, if our community improvement plan includes terms which have been approved by the minister to allow such a program, then we can make those grants or loans.

To answer your question, if it's just an individual who's not a business, a non-profit organization, then there is no limit. A municipality can make loans or grants to, a non-profit organization. It's only when you come into a commercial organization that we have this bonusing issue.

**Mr Grimmer:** So they already have the right to lend to residential —

**Mr Farr:** In the city, yes, we have a number of residential loan programs of various types to help out.

**Mr Ruprecht:** My question was actually answered in Mr Shea's exchange with Mr Christopherson, but I'd just add that in our area we have many absentee landlords and that's why I'm very sympathetic to this move. We know of the carelessness in which some of the landlords hold their properties, and consequently I would like to support this move as well.

**Mrs Helen Johns (Huron):** I'd first like to say that I have found this discussion we're having in this committee important and I would hate to think that this bill had just whipped through some process and we hadn't been able to have this discussion, because in my mind Mr Shea has brought up some interesting questions that I would have never thought of myself, not being as strong in the Municipal Act, section 28, as maybe I should be.

I want to agree with what everybody is saying here. I don't think anybody here has a problem that the city of Hamilton is going to go out and just off the cuff spend money and throw taxpayers' dollars around. I think we all agree that they will in some way get the best protection they can for the taxpayers' money.

What's of concern to me and makes me still uneasy and at this point unable to vote on this bill is the issue of us changing the property of a person who has purchased it without their consent. For example, in my main street — and maybe I'm misunderstanding this, so I want to explore this process a little more. What I believe is happening here is, on the main street in Exeter, for example, we would like to have the façades of the streets changed to be rural early 20th century or 1900s. What we would like to do is have a distinct character which will attract businesses, some of us believe, to the community.

Some business owners, some people who have actually purchased that building, don't want to have their façade



changed to that era. They believe their building has a better marketability, it has a better saleability, maybe even a better aesthetic — I don't know what they believe — and they don't want to change the façade to that.

**Mr Bisson:** You couldn't do that with this legislation.

**Mrs Johns:** I just want to check and see. It's okay for me to ask, isn't it?

What I want to know is, at this particular point you say that you can advance this loan to the tenants and that the owner in effect doesn't have to have any say over that. I'm concerned about that because I think that in some cases it could be a dramatic enough change that the owner could lose value, it could change the character of their building. Could you comment on that for me, try and soothe me?

**Mr Farr:** I think your soothing part would be that again it's a matter of the lease agreement between the owner and the tenant. Most leases would specify what changes the tenant can make to the building without the owner's consent. If it's a major change generally that's not allowed without the owner's consent. If the tenant wanted to make this major change under this program, then he, she or it would have to have the owner's consent.

I may have led the member astray. Many of them probably won't be a major change; they will be more in the line of what we were talking about, property standards orders and somewhat sprucing up the store.

**Mr Christopherson:** If I can, Helen, if there's a problem, and I think it's reasonable to assume that in some cases there may be a difference of opinion between a tenant and a property owner, for whatever reason, that's fair. But as I mentioned earlier, it's the lease that will dictate what can or can't happen. If the property owner ends up unhappy, it's not necessarily because of municipal money, because the tenant could very well have made the same changes within that lease through private funding. So my point earlier was that the property owner has a lease problem in terms of the words they have agreed to versus the issue of whether the city became a party to providing finances for the changes.

**Mrs Johns:** Which I agree with.

**The Chair:** Mr Bisson.

**Mr Bisson:** Mr Christopherson and the lawyer responded to the point I wanted to make.

**The Chair:** Mr Gerretsen.

**Mr Gerretsen:** The same thing. It's always provided for in a lease, to the best of my knowledge, and there may very well be a clause in a lease that would allow a tenant to do this, or they usually have to get consent of the landlord, in any event.

**The Chair:** Are the members ready to vote? We will vote on Pr51, An Act respecting the City of Hamilton, sponsored by David Christopherson, MPP.

Collapsing sections 1 through 4, shall these sections carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

I wish to thank the applicants and appreciate the questions. I declare this order of business closed.

**Mr Christopherson:** Thank you, Chair, and members of the committee.

1100

#### MUNICIPAL LAW ENFORCEMENT OFFICERS' ASSOCIATION (ONTARIO) INC. ACT, 1997

Consideration of Bill Pr83, An Act respecting the Municipal Law Enforcement Officers' Association (Ontario) Inc.

**Mrs Johns:** Committee, I'd like to thank you for your time on this issue. I'm representing Mr Tascona today, who is unable to be here. He sends his regrets as he has another engagement that he has to be at.

The people beside me today have come because they have a private bill, Bill Pr83, An Act respecting the Municipal Law Enforcement Officers' Association (Ontario) Inc. I think it's important for us to consider this bill because it will enable the association to grant a certain class or designation to a specific group of people. They're calling this "Municipal Law Enforcement Officers (Certified)." I think it provides a burden of proof and promotes some professional standards within the organization.

I would like to introduce George Cameron, who is the applicant's solicitor with Graham, Wilson and Green, a barristers and solicitors firm in Barrie, Ontario.

**Mr George Cameron:** The purpose of this bill, as Ms Johns said, is to continue the Municipal Law Enforcement Officers' Association as a company incorporated under private statute in order to allow that company to issue certification of those of its members who become properly qualified.

I'd like to introduce the two folks from that organization who are going to speak to the bill. On my left is Steve Kinsella, the vice-president and vice-chair of the Municipal Law Enforcement Officers' Association — he's from the town of Innisfil — and on my right, Ms Brenda Russell, the president and chair of the association, from the city of Barrie. Brenda is going to speak to the bill now.

**Ms Brenda Russell:** Mr Chairman and members of the committee, I would like to thank you for the opportunity to speak today to the matter of Bill Pr83. The Municipal Law Enforcement Officers' Association (Ontario) currently represents over 700 municipal law enforcement officers throughout the province. Our association operates independent of any financial assistance from government or private agencies.

Since our inception in 1979, our association has strived to recognize the educational and training needs of our members in their respective municipalities. We have developed and delivered quality training and educational programs, and continue to, in response to those needs.

Bill Pr83 is the next step in our association's goal to bring professionalism to the field of municipal law enforcement within Ontario. The provisions of this bill will permit us to recognize through the certification process the training and educational accomplishments of our members, education and training which establishes and serves to maintain a high standard of enforcement practices throughout the province. The Municipal Law



Enforcement Officers' Association is committed to developing and delivering educational and training programs which will establish and ensure professionalism and continuity in the field of municipal law enforcement within this province.

Certification will ensure that our members have achieved these educational and training goals. It will also be an assurance to municipalities and other government agencies, as well as to the public, that municipal law enforcement officers are duly qualified to carry out their enforcement responsibilities and that their performance at all times reflects the highest professional standards, which is what the public demands and most definitely what the public deserves. We propose to do this by the most cost-effective means possible.

I wish to thank the committee and Mr Chair for your consideration in this bill. We look forward to your favourable recommendation.

**The Chair:** Are there any interested parties who wish to address this bill? Seeing none, I would now ask the parliamentary assistant for municipal affairs, Ernie Hardeman, for any comments on behalf of the government.

**Mr Hardeman:** I just want to point out that since 1985 the government has received and gone through about 20 bills of a similar nature. Obviously, since they were approved and deemed appropriate, the government will not be registering any objection to this one. In fact, we would encourage passage of the bill as it relates to helping self-regulate or self-monitor the association.

I think the one point we would want to make is that the association in no way restricts people from doing the position because they are not a member or not designated by the association to do that function. Beyond that, we would strongly support and encourage you to proceed with the function of passing the bill.

**The Chair:** We now turn to questions from the committee to either the applicants or to our parliamentary assistant.

**Mr Gerretsen:** I have a number of questions. I take it that all your members are either bylaw enforcement officers, parking control officers — are they all employed by municipalities or other organizations as well?

**Ms Russell:** There are some ministry agencies that will also employ municipal law enforcement officers, but the majority of our members are employed by municipalities.

**Mr Gerretsen:** How many members do you have?

**Ms Russell:** We have approximately 700 members throughout the province at the present time.

**Mr Gerretsen:** How many municipal enforcement officers do you feel there are in Ontario?

**Ms Russell:** I think it would be unfair for me to estimate at this time. I really don't know.

**Mr Gerretsen:** What I'm getting at is, what percentage of the people in the province are actually represented as being members of your association? Would it be half, a quarter? You must have some idea of roughly how many people who have got these kinds of qualifications and are working in the field you represent.

**Mr Steve Kinsella:** What I can tell you is that since 1979 approximately 2,000 people have gone through our educational programs throughout Ontario.

**Mr Gerretsen:** Your educational programs are what? Basically community college-based?

**Mr Kinsella:** No, it's beyond community college. They're held right now at the Gravenhurst Fire College. Previous to that we were at the Brampton OPP college and previous to that the Aylmer Police College in Ontario.

**Mr Gerretsen:** I've always been highly impressed by the quality of work that's done by the vast majority of municipal law enforcement officers throughout the province. Congratulations and good luck.

**The Chair:** Any further questions from the committee? Oh, sorry, Mr Curling. I had you down.

**Mr Alvin Curling (Scarborough North):** I want to commend you for this approach, because whenever I hear that police are being trained and educated more, I am encouraged by that. Just one question: Considering the fact that we have a wide diversity of culture and race relations in our province and what have you, is a great emphasis placed on this in your education programs?

**Mr Kinsella:** Actually very specifically in our prosecutors' program that we have, that's the advanced program, we have a full day on multi-race relations and multiculturalism. It's given in the prosecutors' course and it's touched on in the basic class in the first week, but in the advanced class it's a full day that's set on covering exactly those types of topics.

**Mr Curling:** Thank you very much and good luck in your program.

**The Chair:** Are members ready to vote? We are voting on Bill Pr83, An Act respecting the Municipal Law Enforcement Officers' Association (Ontario) Inc. Ms Helen Johns is sitting in as sponsor for Mr Joe Tascona, MPP.

In keeping with tradition, shall sections 1 through 12 carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall the preamble carry? Carried.

Shall I report the bill to the House? Agreed. I shall do, and I wish to thank the applicants and declare this order of business closed.

1110

#### CHINESE CULTURAL CENTRE OF GREATER TORONTO FOUNDATION ACT, 1997

Consideration of Bill Pr81, An Act respecting the Chinese Cultural Centre of Greater Toronto Foundation.

**The Chair:** We have a final order of business. I would ask the sponsor and the applicants to approach the witness table. We are distributing some additional information on this private bill. Our next item of business is Bill Pr81, An Act respecting the Chinese Cultural Centre of Greater Toronto Foundation. The sponsor for this bill is Alvin Curling, MPP. I would ask Mr Curling for some brief remarks and then we would go to the applicants to introduce themselves and make comment.

**Mr Curling:** We have today with us Ming Tat Cheung, the chair of the Chinese Cultural Centre of Greater Toronto Foundation, and directors Brian Chu and David Tang, and Mr Greg Wong who is in the back here.



First I should make a comment about the Chinese Cultural Centre of Greater Toronto, an organization that has a strong historic background in doing community work, not only as it may indicate here for the Chinese culture but also for the wider culture of Scarborough and greater Toronto. Their contribution to greater Toronto has been remarkable and they are seeking today, as you can see, a waiver of the property tax with respect to the site on which they are located, at 5183 Sheppard Avenue East in Scarborough. They have strong support all over. I would leave the rest for the chair, to make his introductory comments as he so desires.

**Mr Ming Tat Cheung:** On behalf of the Chinese Cultural Centre of Greater of Toronto, the CCC, I would like to thank the committee for letting us have this opportunity to present to you our application requesting your support of the introduction of a private member's bill in the Legislative Assembly of Ontario which would grant the municipality of Metro Toronto the right to waive property taxes with respect to the property at 5183 Sheppard Avenue East in the city of Scarborough, where the centre will be located.

The Chinese Cultural Centre of Greater Toronto Foundation is a non-profit, charity foundation with the goal to build the largest Chinese cultural centre in North America. The project concept started almost 10 years ago. The objective of building the centre is to promote Chinese culture to all citizens of Ontario. The project will be shared by all Ontarians.

The centre will bring regional prominence to the greater Toronto area, attracting investments from the Far East, and will promote business and trade opportunities with the Far East countries and regions. It will also have the benefit of job creation and the promotion of tourism opportunities. Ultimately an understanding of the differences between the cultures of the east and the west will bring social and racial harmony to our society.

During the past six years members of CCC have spent thousands and thousands of volunteer hours to bring this project to its fruition. The ground-breaking ceremony took place last November. The opening of the phase 1 building is planned for the spring of 1998. This project, when completed, will represent an injection of millions of dollars privately raised.

The landmark project will become the focal point for the Chinese community, but it will also become a symbol of successful cooperation from the grass-roots community and the different levels of government. We sincerely hope the members of the committee will support our application.

**The Chair:** Thank you, Mr Cheung. Do any other applicants wish to make opening remarks?

**Mr Cheung:** Our members are prepared to answer any questions you may have.

**The Chair:** Thank you. Before we go to questions, are there any interested parties in the room? Seeing none, we now go to MPP Ernie Hardeman, the parliamentary assistant for municipal affairs, for comments on behalf of the government.

**Mr Hardeman:** Thank you very much for the presentation. The ministry obviously has certain criteria when a private bill is being prepared for this type of process.

There is a list of criteria circulated — the applicants received that — of the type of things that need to be done. The two that I find rather important and would like some clarification on is the support of the school board and the support of Metro council.

I notice that in the information we received we have a list of councillors who have signed to say they agree, but it is not the support of Metro council. Having been a municipal politician for quite a number of years, I can't tell you how many times I've been told that municipal government is directed by the vote of council, not by the concurrence of individual members. This not being the case in Metro, of course, there have been some cases where I've noticed that what is supported one day in the office of the member individually is voted against at the council meeting.

I have some real concerns that we don't have the required local support for this bill. I wonder if you could clarify for me why the process prevented you from getting a council resolution and a school board resolution, as opposed to going the route of getting individual signatures; recognizing that this is not a property already on the ground or that already requires the tax exemption today to stay in business, but that we are working based on what is yet to come.

**Mr Cheung:** One of our directors, Mr David Tang, will answer your question.

**Mr David Tang:** Certainly. The difficulty we faced in getting this bill to this committee and hopefully to the Legislature is simply that at some point the Legislature is going to have to recess for the summer. Our hopes had been to get this in place prior to the 1998 taxation year, and that really requires us to have this bill in place prior to the fall of this year. As both Metro and the school board have indicated in their correspondence with you, they will be undertaking a process, after the bill has been passed, to determine whether to waive or not to waive those taxes.

The process from their point of view is that this legislation enables them to consider whether to waive those taxes. They were not wanting to go into the process of considering whether to waive that before the bill had passed. They would like to consider that after the bill has passed.

What they have done — particularly if you look, for example, at the letter written by the school board — is to indicate that they intend to consider it after the bill has passed, as they have with, for example, the 750 Spadina Avenue Association, which is the Jewish centre.

**1120**

The situation with Metro is similar. They have forwarded this matter to their financial priorities committee for consideration. The consideration will ultimately lead to a determination whether they will or will not waive those taxes after the bill has passed. It's simply a matter of timing for the 1998 taxation year and a matter of timing because the Legislature is going to have to recess for the summer.

**Mr Hardeman:** It bothers me a little that we're suggesting it's a matter of timing, that we need to pass the bill today to have it in place for some future date. In the past, in other applications, that doesn't seem to have



been necessary, to have it done today for the future. In fact, most of them are to deal with an exemption that had lapsed, where there was an exemption and because of change of ownership it no longer applied; they propose a bill to eliminate the taxes on something that exists.

I'm a little concerned that the process here is being somewhat circumvented. It should be the local decision that decides these tax exemptions should be granted, not the provincial decision. Particularly with the Metro one, we're talking about Metro dollars, not provincial dollars. To make that type of decision I think we should have the support of Metro council by resolution to proceed with that. I have some real concerns that we don't have that.

**Mr Curling:** What the cultural centre is asking for and Scarborough too is the right to waive the property tax. In other words, if this legislation passes, they have the option to either waive it or not. They can make that decision. I don't really see that this legislation in any way could impede giving the municipality the right to do that waiver. Therefore, the timing of which we speak — they would have that option to waive or not to waive.

**The Chair:** Is there any further response from the applicants?

**Mr Tang:** Simply this: As Mr Curling has indicated, the bill, when passed, will not waive the taxes, it will not exempt us from taxes; it will simply give the option to each of the local municipalities and the school board to do that if they wish to do so. They will undertake an investigation of whether they deem it advisable to do so or not to do so. That's the first thing.

All indications at this point are that Metro is supportive. The letter you have contains the signatures of two-thirds of the members of Metro council. That is more than a majority, more than enough to pass the resolution. It's enough, in fact, to reopen any motion if they wish to do so. There is appended to that letter, I believe, a report from staff to the financial priorities committee recommending that the Legislature pass the bill, specifically that Metro council supports in principle our request for special legislation. That has not yet been voted upon, but there is a staff recommendation to the committee and to council to support the bill.

**Mr Hardeman:** I don't disagree. I just suggest that if the intent was to have the bill in place so council can make its decision on whether it will or will not grant the exemption, I point out that council has the power to give a grant equal to the taxation even without the bill. If that's their position, we don't need any of this process. They can give a grant in lieu or give a grant back in the amount of taxes and it would accomplish the same thing.

There seems to be some discussion about the ownership of the property, whether it's a charitable organization or a not-for-profit, why we have the two and why it isn't going to be registered in the charitable organization ownership.

**Mr Tang:** Let me explain that. It really arises because the Chinese Cultural Centre of Greater Toronto has tried very hard to partner itself with various other organizations in society. It's reflected in our very clear desire not just to be a Chinese cultural centre but to be a cultural centre that reaches out into the community. Consequently, the building, the cultural centre itself, is a joint develop-

ment with the city of Scarborough. The city of Scarborough is, on the same lands, building a community centre and a library and there are plans to build a Chinese garden, and it will be one complex together with the Chinese Cultural Centre of Greater Toronto.

As a result, there were some agreements entered into some years ago for the co-development of the site. That same agreement provides for a number of obligations that the Chinese Cultural Centre, the non-profit corporation, must meet in the process of the development and in the operation of the centre and the entire site, if you would. Those required us to take title to the property in the name of that organization, not the charitable organization, because it is the signatory to that agreement and it has obligations it must carry out with the city of Scarborough. There are things like sharing of costs in the running of that site, that sort of thing. That's the reason why title had to be taken and that's why it had certain obligations. The land itself will be owned beneficially by the charitable organization. The legal title will be taken in the name of the non-profit organization in trust for the charitable organization.

**Mr Hardeman:** The reason I bring that one up is that the first and second criteria for exemption are that the organization must be a registered charity under the Income Tax Act and that the organization own and occupy the property. So all of a sudden we have a discrepancy there as to how we deal with that, that this bill would in effect grant a tax exemption to a non-profit organization as opposed to a charitable organization. I guess I'm looking for a time frame as to when, or if ever, it was the intent that the charitable organization would own and occupy the property.

**Mr Tang:** The time frame for it is uncertain at this point. It would require further negotiations with the city of Scarborough to deal with those ongoing obligations that the non-profit organization has under those agreements. It may be possible at some point that title could be legally vested in the charitable organization. I can't tell you right now if and when that could be. That is something we can't tell you at this time. The difficulty with it is simply that those arrangements which were made with the city of Scarborough for the development of the site are something we cannot get out of at this time.

The only thing we can assure you is to provide you with some indication of the objects of the non-profit organization. I'd be happy to read those to you if that would be of any assistance to you at all.

**The Chair:** We'll have the clerk distribute those documents. Mr Hardeman, another question?

1130

**Mr Hardeman:** No, Mr Chair, I would yield the floor for questions. If the ones I have are not asked when we're through, I will continue on with them.

**The Chair:** Any further responses from the applicants? At this point, we now go to the committee for questions to the applicants or to the parliamentary assistant.

**Mr Ruprecht:** First of all, let me make a statement at the beginning that I will be supporting this bill, but I too would want to find the answer to Mr Hardeman's question about the charitable status. I am just wondering whether that can be done without having to wait. The



concern of why it is necessary to move quickly is also an overriding fact for me of why I would support this legislation.

Having said that the Chinese Cultural Centre of Greater Toronto will supply to the ministry sufficient information that would justify that the charitable organization would be in charge of the Chinese Cultural Centre of Greater Toronto, I would point to the fact that the city of Scarborough, at its meeting of May 27, actually passed this resolution supporting this private member's bill.

That is significant to me. You have the letter of Frank Faubert, the mayor of Scarborough, in front of you. You have, as was indicated, the written assurance of two thirds of Metro council in front of you, which is more than a majority of Metro council, and you have the support of other institutions, including a list of precedents which indicate as well that this will not be any different than other organizations which have the tax-exempt status. Consequently, I would urge that the Chinese Cultural Centre of Greater Toronto be provided with the tax-exempt status as well.

**Mr Tony Clement (Brampton South):** I intend to support the bill as well and I do so because this group has followed a similar process as one of the groups last week in terms of providing for the right to waive by municipalities upon the enabling legislation having been passed. I believe that this group has accomplished all reasonable efforts to get the support of both the city of Scarborough and Metro council to the extent possible, given the council schedules of those particular councils.

I believe they have also today undertaken to get some charitable status information to the Ministry of Municipal Affairs to clear up any lingering issues of concern with the ministry, and so are again providing reasonable efforts to clear away any residual issues that are outstanding, which to me are issues that should be resolved, but there is nothing in my mind that turns on it in terms of deciding today.

Having said all that, the question I want to ask the parliamentary assistant or others who know the answer to this is, my understanding is that all these things are going to be up for review by the new city of Toronto, as they review the status of all previously legislated or resolved issues of the previous councils that still exist today but won't exist on January 1. Is that the PA's understanding as well?

**Mr Hardeman:** As it relates to Bill 103 and the formation of the unified city of Toronto, one question in this application would be whether the city of Scarborough has the ability to transfer this property at the present time, because it requires the concurrence of the transition committee to dispose of property in excess of a certain value. That would be a question that would come up. I am not sure that presently there is legislation, or that it is in the legislation, that would suggest that exemptions agreed to by the present councils would not be honoured by the new council. The bill does not speak to that issue in particular.

There are many other changes presently taking place and that present some concern. One is from the Ministry of Education and Training, who have suggested that the application should not be approved, or the bill should not

be approved. Based on the new way they're proposing to fund education, it would no longer be a responsibility for the local school board to decide whether taxes should or should not be exempt. It would be a provincial decision because education will be provincially funded.

One of the differences between this bill and the bills that were dealt with at previous meetings or in previous times is the fact, as I said earlier, that this is to be implemented at some time in the future as the situation presently does not yet exist. The property has not yet been transferred. It is not yet eligible to have the — it presently is not being taxed, I presume, if it's owned by the city of Scarborough.

It would appear that this bill would be put in place to deal with an issue that may very well come to pass in the future. One of the issues this committee has dealt with many times is that the bills are passed based on the present criteria, not at the future action of the province. We dealt with the last exemption based on the rules as they apply today. If the rules change, then that bill would no longer be in effect. It would have to be overridden by the new legislation the province would come out with.

One of the concerns we have with this one is that it is trying to deal with the future, as opposed to the present. It is not an exemption for the past or an exemption on the property that exists today. The purchase and the transaction have yet to take place, and that's why all three ministries that we got response back from — municipal affairs is recommending that we defer consideration of the bill because of the council votes that are not there. The Ministry of Education and Training has suggested we defer consideration of the bill, and similarly with the Ministry of Finance, which has some concerns.

**Mr Clement:** A couple of comments on that: Number one, I am not sure why the ministry says they don't exist, because I've just been handed letters patent that indicate this group does exist.

**The Chair:** Maybe not everybody has that information. Were you just handed that?

**Mr Clement:** I just got handed this information, so they do exist.

**The Chair:** Let's wait till this gets circulated.

**Mr Clement:** Can I continue my comments, Mr Chair?

**The Chair:** Yes, and then maybe come back to that.

**Mr Clement:** I just said what I wanted to say on that particular issue.

**Mr Hardeman:** Could I ask a question on that, Tony? Does the corporation exist or has the deal been made to transfer the property? I'm not suggesting the corporation doesn't exist. What I am saying is that the corporation that is asking for the exemption does not own the land they're asking the exemption on.

**Mr Clement:** Right.

**Mr Hardeman:** It's not tax they're trying to be exempt from; it's a transaction that will happen in the future.

**Mr Clement:** And the owner of the land, the city of Scarborough, has passed a resolution indicating they want to deal with the land in a particular way, so the current owner and the future owner are in concurrence as to how they want the land to be dealt with.

As for the Ministry of Education and Training, it's all very well for them to say that in the future they intend to



deal with something in a different way, but as you said, the future is not the present and in the present circumstances, which are similar to the circumstances last week, the Ministry of Education and Training did not raise an objection to previous issues that were dealt with in the same way by this committee last week. I have great difficulty understanding why the Ministry of Education and Training is coming forward today with a different point of view, which was not evidenced last week. I have great difficulty with that.

1140

**Mr Hardeman:** In reply to that, I would just point out, as I said earlier, that the applications last week were in fact to give the municipalities the authority for tax exemptions back to 1995 for properties that had been used for that purpose since that time. This one is an application for authority to grant tax exemptions for property that the non-profit corporation will own in the future; they do not presently own it. As it's on the ground today, this bill is not required, the property is tax exempt, owned by the city of Scarborough.

**Mr Clement:** Right, but I would argue that's a distinction without a difference. The connection with last week is that we had an application for a future right to waive property that was based upon the municipalities doing an act in the future rather than an act in the past. That's why I'm drawing the distinction between this week and last week.

**Mr Gerretsen:** I don't know where to start. First of all, I was very surprised by Mr Hardeman's comment about half an hour or so ago, when he stated that what a local politician may sign in his office may be quite different from the position he or she takes when it comes to a vote. That's certainly not my —

**Mr Hardeman:** Well, it is mine.

**Mr Gerretsen:** That's certainly not been my experience at the local level. I've certainly seen it here where I've heard from different members, including government members, who take positions totally different from the way they vote in the Legislature. I totally disassociate myself from any comments of that nature. I've got a high regard for local politicians.

I know you've got a difficult time, Mr Hardeman, carrying the bag for the bureaucracy in this situation, but it's a typical case where the bureaucracy, and I don't care what ministry it is, basically wants to influence a decision like this, where they would be much better off just staying out of it and letting the public process take its place.

We could have a long argument and a long discussion here as to whether or not these types of applications in the long run are valid or not. I'm talking now in a generic way. We've got to remember that the more of these kinds of applications we approve, the more other taxpayers in the local municipality are going to have to shoulder whatever the total tax burden is within that municipality. You could have a long argument whether or not these kinds of applications are valid at all.

The problem is they started approving them X number of years ago. To take it out again now that certain organizations are coming along with these kinds of applications, in my opinion, would be totally discrimina-

tory and totally unfair. If you've got one cultural organization that doesn't pay taxes, why should the next cultural organization pay taxes?

To in effect say, as Mr Hardeman says, that the building doesn't exist yet or the taxes aren't owing yet and therefore they're premature, to my way of thinking is totally irresponsible. These people ought to be congratulated for coming forward before they're actually in the ground and doing things, by making the right kinds of applications to the Legislature. Are we now going to start penalizing people for taking a proactive approach rather than a reactive approach, as we so often see? I don't agree with that at all.

It's this whole notion that somehow the Ministry of Municipal Affairs, after all is said and done, including their pompous statements about being in true partnership with municipalities etc, still knows what's best for municipalities.

The bottom line is this: There are three sections in this act in which it leaves it to the local city, to the Metro school board and to Metro council to decide in each and every case whether they feel in this particular situation, once the building is up and running and the organization is up and running, taxes ought to be cancelled. Why don't we leave it to the local decision-makers whether it's appropriate? All they're asking for here is just permissive legislation that has been given to other organizations as well; it puts them on equal footing with them. To do anything other than that, to my way of thinking, would be highly discriminatory. I fully support this application.

**Mr Hardeman:** I just want to clarify the issue of the signatures of the members of council and a decision of council. All members of the committee, I suppose, can think back to yesterday, the debate we had in the Legislature about rules and procedures, and the recognition that there was some significance to discussion at a council table as to the issue and how a member of council may vote when it's over.

The criteria used in all past bills requesting and requiring the support of council as a motion as opposed to polling council members to see how they would vote on it if it came to council precludes or takes out the ability of council to have the discussion and then vote to see whether this is right or wrong and have the voice of council as opposed to the voice of two thirds of the individual members, who have not yet had the opportunity to hear the pros and cons and the rights and wrongs of the issue.

All past bills have been processed through this committee based on the votes of council, the resolutions of council. Not that they're not honourable people, but there is a difference between council speaking through resolution of council and individual members speaking prior to the council meeting and not having been part of the debate.

**Mr Gerretsen:** But the real question surely is whether a resolution of council is even required. It is this organization's application. It would be nice, and maybe it has always been past practice, that a resolution of council or the school boards is there. But my question to you is: Is that an absolute necessity, for the Legislature of Ontario to take a position on a private bill like this? I don't think



it is. That may be ministerial practice and it may be a nicety etc, but there's nothing anywhere that says you absolutely need, as a matter of law, a resolution of council for the Legislature to process this kind of bill.

**Mr Hardeman:** I'm not suggesting that at all, Mr Gerretsen. I'm just suggesting that the criteria all these applicants have been put through in the past or asked to adhere to in order to make a sound decision have always been there for other applications, a requirement of a resolution of the councils involved. This one does not have that. My point is only that, contrary to your position, I believe there is a difference between polling council members and having a resolution of council.

**Mr Gerretsen:** I think there's a difference too. I know there's a difference there.

**Mr Hardeman:** I think there's a difference between the press calling members of the Legislature and having a vote in the Legislature. I believe there's a difference, and I think that difference here is not —

**Mr Gerretsen:** But my question is: Is there an absolute need? Is it a requirement or just a nicety?

**Mr Hardeman:** I believe it is up to this committee to make a decision on whether it thinks this bill is appropriate. I would hope that decision was going to be made by the members of this committee upon hearing the debate that has been held here this morning, not the way they were polled last night.

**Mr Shea:** It would seem as though we are going down this path again. We've gone down this at least for the last year or so. I suspect that committees before us have gone down the same path. The request we have made of the ministry is that it give consideration to revisions to the Municipal Act, which may give some effect to the kind of question we've raised in terms of streamlining the process. It may be enabling legislation that allows municipalities, agencies of municipalities, to forgo taxes or give grants in lieu. If that were a generic amendment, it would resolve these kinds of hearings. But that, unfortunately, is not currently on the books. That's what the parliamentary assistant was trying, at some pains, to point out. The fact is that we're still caught in a bit of a time warp, and we have to deal with each circumstance as it comes before us.

We have an interesting case. Mr Gerretsen's unfortunate choice of words about the role of Metro council may reveal the way Kingston council runs, but the reality is, as Mr Hardeman pointed out, that no matter how many people you get to sign a document, it's meaningless until it actually becomes a resolution of a council. The fact is that you will note on the documents before us, these people and the Metropolitan council itself have referred this issue on to the chief administrative officer for a report back early in July.

1150

There's no doubt in my mind it will come back very favourably disposed and saying, "Let's do it." But Mr Hardeman makes a point of caution I think we're agreed with, and while I'm a prepared to support the bill, I understand his caution. It's not one we should pass over lightly. The concern I have is, and I want to put the question to the deputants, is that the policy of the committee has always been when you want to come forward

and get your tax exemption — recognizing we'd like to get rid of these things in a generic way, but we still have to live in the circumstances left to us during the lost decade.

How do we kind of get our hands on all of this and make some sense out of it and how do we begin to deal with it in an effective fashion? The rule is that you come forward and you have letter from the Metro council, you have a letter from your city council, a letter from the local school board and a letter from the Metropolitan school board — another case in point of why this government is desperately trying to streamline local government.

Now let me go back and point out what's before us right now. The fact is, as I take a look at the document, the only criterion that you've met so far has been a very clear statement from the local council of the city of Scarborough. Is that correct?

**Mr Tang:** Yes, but my understanding —

**Mr Shea:** Thank you. Let's just stay with me for a minute. The only clear approval you've presented to the committee today to meet the criteria required by the process of this committee is the city of Scarborough has absolutely said, "Taxes will be forgiven."

**Mr Tang:** That's not my understanding of what the criteria are and, for that matter, neither is that what Scarborough has said. They have recommended or asked the Legislature to support the passage of the bill. That's the only thing any of these people have been asked to do and that's the only thing that I understand this committee requires, not that they will say —

**Mr Shea:** I understand your words and I understand how you're using them. I could even accept your interpretation of that word. Let me say that even if I accepted it as you interpret it, the only formal statement I have before me today is from the city of Scarborough. Is that right or wrong?

**Mr Tang:** Yes, that's correct.

**Mr Shea:** All I have as an undertaking before me is that Metro council has referred it on to the CAO for comment?

**Mr Tang:** Correct.

**Mr Shea:** A group of mayors and councillors have all said, "I think this is a great idea and when it comes forward, I want to give it my support, but it's got to go to the CAO for reports."

**Mr Tang:** Yes.

**Mr Shea:** I have nothing before me from the school board.

**Mr Tang:** No, that's not true.

**Mr Shea:** Which one do I have?

**Mr Tang:** You have —

**Mr Shea:** Except from the Metro school board.

**Mr Tang:** Yes.

**Mr Shea:** What have I got from the local school board? What date did you apply to the local school board?

**Mr Tang:** The bill does not call for the local school board to give it and neither, to my understanding, have any of the other previous bills that have been passed. Neither, for that matter, have there been resolutions from the Metro school board for the other — for example, for the Jewish federation.



**Mr Shea:** Your understanding is that you only have to have the council to decide it will forgo its portion of the taxes.

**Mr Tang:** No. It's the Metro school board which must do that.

**Mr Shea:** I see. Is it your opinion that the Metro school board is able to forgive the Scarborough school board portion of taxes?

**Mr Shea:** That is my understanding, yes.

**Mr Shea:** Would you be surprised if I told you that you were in error?

**Mr Tang:** No.

**Mr Shea:** You would not be surprised?

**Mr Tang:** My understanding is that's the way all of the bills that have been drafted previously have been dealt with, that they have been asked to provide a resolution prior to coming to this committee only from the Metro school board and that's the way they've been dealt with.

**Mr Shea:** I am incredibly supportive of the application. I am distressed by the misunderstanding that seems to be reflected here because in fact there is a procedure that this committee has adopted for years, not just for this government, with other governments. I think that's what the parliamentary assistant was trying to get at. There is a concern in his mind to make sure you are protected but also that government rights are protected and the rights of the local municipality are protected.

We can get into another debate about the property tax erosion Mr Gerretsen raises at another point. That's a different issue and we'll get that at some other point. But I'm concerned about that on behalf of the parliamentary assistant. Mr Ruprecht has suggested, "Let's simply get it approved and get on with it." I understand the politics of love, trust and pixie dust, but there is a need to go just a little bit past that and say, "We need some kind of understanding that's very clear to make sure we're not making some mistakes," not the least of which is the issue Mr Hardeman raises about the ownership. That may or may not be troublesome; I don't know. He's the parliamentary assistant and would best know that.

First of all, I gather from your response to me you have not applied to the Scarborough school board for waiving of fees or an indication of whether it would be prepared to waive fees.

**Mr Tang:** We have written and advised them that we are seeking this bill.

**Mr Shea:** You have written to them.

**Mr Tang:** But they have not provided a response.

**Mr Shea:** Notwithstanding that it was your submission, your opinion that it was the Metro board that would forgo those taxes.

**Mr Tang:** We did write to them; we did tell them we were doing this. The problem is our understanding was that for the purposes of this committee hearing this bill —

**Mr Shea:** You only needed the two, the Metro council and the Metro school board approval.

**Mr Tang:** Yes, that's right. We only needed Metro council and Metro school board, although I had also understood that a number of other associations had not managed to actually obtain the Metro school board's

approval in the past before they came to this committee. They're in the same position we are in.

**Mr Shea:** All right. I have no other questions.

**Mr Kennedy:** I listened with interest to the discussion. I think it's important that we look at what is the substantive public interest here. The substantive public interest has already been modelled for us a number of times by other organizations in terms of what we're enabling municipalities to make a decision over.

I certainly respect Mr Hardeman's points, but there is not in my estimation a material difference between this application and the ones before as it relates to the public interest. The public interest here is not a future consideration; it is 10 years of effort by the Chinese Cultural Centre, by the local government.

Everybody who is in the GTA knows about the process and the bona fides of this particular association. While it may be new in the sense that they're up against some of the changes in deadlines and so on that are happening, there's no question, and I'd certainly like to add my own personal knowledge to that where it may influence in some small way the balance, that there is substantial local interest and support for the municipalities to have this choice.

This is a unique project. It has a level of slightly added complexity, but that just taxes us to make sure we understand, does this meet the test of substantial public interest? The explanation we received around the land — we're not being asked to approve anything that is substantially different in any way from what we've already granted to numerous comparable organizations. The effort, which is known certainly to Metro and I believe GTA members, to have this be a unique project is something we're supporting, not something worth frustrating either the city of Scarborough or this association.

It's very important that we look at it that way, and on balance, while I respect the points Mr Hardeman has made on behalf of some of the administration, I really believe this application fits that criteria in all material ways. We're looking at a charitable organization that will operate a charitable program in the public interest, that has worked not just incidentally but very closely with the local government, has the support of that local government, has at least a demonstrated prospect of very strong support from the Metro government. I don't think there's any doubt in the minds of Metro members that they will receive the support of Metro council and the related bodies and I think it is that kind of understanding should inform the decision we make today.

While there is reason to take this kind of time to discuss this and to understand what we're considering, I think there is still a very, very clear substantive public interest and basis for us to pass this today and enable this 10-year project to come to fruition in the way that it only can with this kind of enabling legislation.

I would emphasize that that's what's we're doing. We're enabling the municipality to make the choice. I don't see anything that we're taking away from the municipality's ability to do that, and some of the discussion points I'm sure will be resolved in that process.

1200

**Mrs Johns:** I'm not sure if there's any legislative counsel here from municipal affairs, but I just was



wondering if I could ask a question, and it may well not be something that's worth commenting on. I just wanted to ask, since Mr Hardeman made what I thought was an interesting comment when he talked about the bill being futuristic, that in the future this will kick in because at this particular point the Chinese Cultural Centre does not own the property. Did I interpret that correctly, Mr Hardeman?

*Interjection.*

**Mrs Johns:** What I would like to know is, if we come along with some of the bills, for example, the unified city, where there could be a change in the way the Toronto area would like to do grants in lieu or that the province would like to deal with grants in lieu around education because it will no longer be a board decision but a provincial government decision, would this private member's bill take precedence over the legislation that's coming through right now with respect to the province, or would we in effect have to put through a bill to reverse this specific bill? Because it has a different flavour by a little bit than the bills of last week, because it's not dealing with issues in the past where we already know what the tax rate was; we're dealing with it in the future. Is that a problem?

**Mr Paul Murray:** Paul Murray with the Ministry of Municipal Affairs. It's not really that different in the sense that what it's saying is it sets certain conditions under which the bylaw regarding the cancellation of the taxes can be passed, and those conditions have to exist before the bylaw can be passed. The fact is we know from the information that's been provided that certain of those conditions don't exist today and won't exist probably at least until October, whereas in the other bills that we've looked at, all of those conditions existed at the time the committee was looking at the bill. In that sense, it's really the satisfaction of the conditions; it's not the way the bills have been framed that's really any different.

**Mrs Johns:** Okay. So, for example, if we come through later on and for example — I have no reason to believe this would happen but I'm just interested — the province decided it didn't want to do grants in lieu for education in the future, let's say, what would we have to do with this bill to be able to allow that to happen?

**Mr Murray:** I haven't looked at specifically how we would vary this range of private bills but I suspect in any kind of legislation we want to speak to it fairly directly as to how we were changing the existing state of things in terms of the legislation.

**Mrs Johns:** So we don't need to put a caveat into this bill but we would have to deal with it specifically about all the private bills we've passed all the way along, if the government so chose to take another vision?

**Mr Murray:** I think that would be the intent.

**The Chair:** A question from Mr Gerretsen.

**Mr Gerretsen:** It's not so much a question but a comment. We always want non-profit groups to run their affairs in a business-like fashion. I don't see what the problem is with this so-called futuristic approach. You've got an organization that wants to build a centre. Surely, before they build the centre they want to know whether or not they have to pay taxes. What is wrong with giving a non-profit, charitable organization — these people are

duly incorporated — the right to apply to a local council or a local school board that, if and when they ever buy a piece of property and develop it for non-profit or charitable purposes in a particular municipality, the right to apply to that municipality to have those taxes that may be on that property waived?

Why do they have to be up and running? Why do they have to lay out the money first and then apply for it back? What is wrong with doing that beforehand? It may very well have been that it's never been done this way before, and it may be the ministry feels somewhat uncomfortable in dealing with it, but all we're doing here is giving the local municipality and the local school board permissive legislation if and when they develop their cultural centre, either on this site or on other sites, the right to apply. Other organizations have it. Why shouldn't they?

**The Chair:** Do you have another question, Mrs Johns?

**Mrs Johns:** I think he was going to answer and it's not answered. I think it's important for us here, when we sit in a committee, to understand all the facts before we talk about voting. In my particular case, because I didn't come through the municipal field, it takes me time to understand all of the issues associated with it, which may come very naturally to you as a result of years as the King Pooh-Bah of Kingston.

**Mr Gerretsen:** Don't hold that against me.

**Mrs Johns:** From my standpoint, I think more information to be able to make decisions is the best thing we can all do. That fulfils our duty as representatives in our community. So I think a good discussion about what's happening, a thorough understanding from everybody's perspective is the way we should go in this committee. I don't think you need to say, "Hey, you shouldn't ask questions," because I think we all have to understand the issues to be informed, to be able to have a good vote here.

**Mr Gerretsen:** Just on a point of order, I would never suggest that we shouldn't ask questions. Quite frankly, my comments weren't addressed at you or anybody else on the committee at all; they were addressed more at staff of the ministry. I know they like doing things in a certain way, and if it doesn't fit that mould, there's all sorts of hesitation about it. I noticed that in the body language of the parliamentary assistant and I feel sorry for him.

**Mr Clement:** That's on Hansard now.

**Mr Gerretsen:** All I'm saying is there's nothing wrong with them applying in the manner in which they've done it, because in any event the ultimate decision is going to be left up to the local board and the local council whether or not they want to cancel taxes. I always welcome your questions, Ms Johns.

**Mr Hardeman:** Just a couple of final comments. I think Mr Gerretsen's presentation included the words "non-profit organization" about three times. I want to start with that one.

First of all, I want to say I support the principle of what you're trying to do. I agree that these types of organizations have got the tax exemption in the past and I see no reason why yours shouldn't get it now or in the future. But I have this concern as it relates to the non-profit. This committee has not in the past granted tax



exemption status for non-profit organizations, only for charitable organizations. We are talking in this case about the non-profit organization owning the property, and that's a departure from what the past has been here.

The other item I think is important, as I said when we started, is the issue of municipal support. I think it's in the procedures for Applying for Private Legislation, as printed, to deal with this committee. This is on page 6: "If the bill affects the interest or property of any municipality or local board or the tax base of any municipality, the applicant should indicate that specific notice has been given to the affected body or bodies and the date that notice was given."

I think this legislation affects Metro Toronto in a significant way. I think it's appropriate that those steps have been followed. I suppose we could suggest that we have given notice to Metro, so you've accomplished that, but then other documentation says "and Metro is considering the issue." Now we're saying, "But what you're considering becomes irrelevant because we've already made the decision."

You can deal with the other part, whether you will or will not grant the exemption, but you will not have input into whether the province passes the private legislation.

If we want to deal just with their right either to grant it or not to grant it, they can do that through a grant process now. You don't need this legislation for that. If Metro decided that this centre should not pay taxes, whatever the taxes are, they can just send the cheque back and you would not have to pay. So I think it's significant that they be involved in this process.

In this application, and I've mentioned it a couple of times before, I don't see the imminent need for this to be passed today, recognizing that the taxes are not on the property today, and until the transfer takes place, it's exempt property as it stands. I don't see the imminent need for passing it today, that another month or another two months would change your chances or change the situation as it is today, recognizing that many of the others that have gone through this process, the reason they had to be backdated or made retroactive for such a long time was because it took that long for them to be in the process that they went through to get their support, to get the comments from all the local authorities and so forth. It would appear that could be done and this could still all be in place in time for the centre to proceed.

1210

With that and for all those reasons, although I do support the need for legislation or the need to deal with your issue, I don't see the imminent need to do it today. I would make a motion that we defer the decision. That's based on the fact that I do not feel comfortable to vote against the bill, though under today's circumstances I do not feel that I could support the bill because we need more information. So I would make a motion that we defer a decision on the bill until further information is brought forward to the committee.

**The Chair:** We have a motion before this committee to defer the decision on Bill Pr81. Shall this motion carry?

**Interjection:** When you say defer —

**The Chair:** To defer further consideration of Bill Pr81.

**Mr Shea:** Are we deferring sine die or are we deferring it to a specific date?

**Mr Hardeman:** I would be prepared to add to the motion "to be deferred until the required information was brought forward by the applicant." That could be at the next meeting; it could be two meetings.

**Mr Clement:** I would request that it be deferred to the next meeting.

**Mr Hardeman:** I would be prepared to defer it to the next meeting, but if we're deferring it to get the information from Metro council, to get the information from the school board, if the applicant does not have it for the next meeting, to have it deferred to that meeting would be inappropriate. I would leave that with the applicant to get that information and then defer it —

**Mr Clement:** If they don't have it at the next meeting, we can defer it to the meeting after that.

**The Chair:** I might mention that there are other bills and often it's hard to determine exactly which bill comes up in the next meeting —

**Mr Clement:** Mr Chair, if we can send a man to the moon, we can figure out the order of precedence for the next meeting. It's not rocket science here.

**Mr Gerretsen:** The motion says so that the required information is here. From what the parliamentary assistant has already read, they were required to give notice to these three organizations. They've done that. It may have been a matter of practice that you don't only give notice but you also get a resolution from them. If that's what he's looking for, the ministry's own guidelines don't call for that, because you indicated yourself in what you read that they are required to have been given notice.

It clearly illustrates the point I was trying to make earlier, that what's become a requirement now as a matter of fact is much more than what the ministry guidelines originally said, whereby you give the other organizations, such as the school boards and the municipality, notice. That's been translated into resolutions of support. On that basis alone, I would urge the members of this committee to show their independence and to vote against the deferral motion.

**The Chair:** Further discussion on this motion?

**Mr Curling:** That's the point I want to make, and Mr Gerretsen made the point very well. The fact is that notice was given, of course, and those requirements were adhered to by the committee. But the fact is, if you're looking for a resolution to come back from these organizations, from Metro and all that, a time frame will be extended way beyond the time that we're talking about, depending on whether or not Metro will meet, whether the Toronto board will be there to meet, to get those resolutions back in time for them to come back with those resolutions. As I understand the reading of the procedures there, notice should be given, and that was given. But the notice did not say, "And further, to get a resolution from these organizations."

**Mr Kennedy:** I'd like to speak against the resolution for the simple reason that we're not going to accomplish anything. I don't think there's any doubt that there is local support for municipalities to have this choice. It's been expressed to us as strongly as it can be. Given the time frame of this committee, this committee will not be



available to take care of this at the time when that support might more formally be extended. All the legal things have been observed in respect of this. So with all due respect, I think this can only be a technocratic delay on our part should we concur with it.

Secondly, on the question of ownership, we're being asked to prove beneficial ownership of a registered charity. That's what we're being asked to do. It's the occupancy in conjunction with, and we've had an explanation which I have not heard disputed by anyone. That explanation is unlikely to change. We will not have the date of sole occupancy. That's the only thing we're being asked to consider that is slightly unusual about this application. If the resolution of that issue is problematic, I have not heard a member of this committee express it. It won't change next week or the week after that.

On the substantive issues, I believe I've heard concurrence expressed by people who understand the objects of this organization. I've had no indication that there is something wrong or inconsistent with that slight alteration, and we have absolutely had the extension of local government support for the choice to happen. I think this delay can only be technocratic and can only add up to frustrating this organization unnecessarily.

**The Chair:** Could I ask Mr Hardeman to restate the motion and then I'll put it to the committee.

**Mr Hardeman:** My motion was quite simple: to defer the application in order for the committee to receive the responses to the notification that was sent out by the applicant.

In explanation to it, I think it's one thing to suggest that yes, we have met all the requirements, we have given notice. I think all would agree that giving notice also implies that you give time for response. In my opinion,

that has not been done at this point in time. If I could see the imminent need for this to be in place next week, I would maybe reconsider, but I don't see that on the ground. I would be prepared to add to it "at the next meeting" or in the next two meetings if the committee would be more receptive to a time on the resolution as opposed to just deferring it.

**Mr Clement:** I have a point of order for the Chair: I'd like to request a five-minute recess for this side to discuss this issue internally.

**The Chair:** All in favour? A five-minute recess.

*The committee recessed from 1217 to 1223.*

**The Chair:** We have a motion before the committee. I'll restate the motion: That consideration of Bill Pr81 be deferred until the requested resolutions are provided.

Shall the motion carry? All in favour? Those opposed? I declare this motion lost.

**Mr Gerretsen:** I move the question.

**The Chair:** We are considering Bill Pr81, An Act respecting the Chinese Cultural Centre of Greater Toronto Foundation. The sponsor is Mr Alvin Curling, MPP. In keeping with tradition of collapsing sections — there are no amendments, are there?

**Clerk of the Committee (Ms Rosemarie Singh):** No.

**The Chair:** Shall sections 1 through to 10 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the schedule carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

I shall do so, and I declare this order of business closed and the meeting adjourned.

*The committee adjourned at 1225.*

## ERRATUM

No.	Page	Column	Line	Should read:
T-19	210	1	11	amendments to Bill Pr74, An Act respecting 4588











## CONTENTS

Wednesday 18 June 1997

<b>Ontario Association of Not-For-Profit Credit Counselling Services Act, 1997</b>	Bill Pr82, <i>Mr Crozier</i> . . . T-221
Mr Bruce Crozier	
Mr John Curran	
Mr Gregory Stewart	
<b>City of Hamilton Act, 1997</b>	Bill Pr51, <i>Mr Christopherson</i> . . . . . T-223
Mr David Christopherson	
Mr Lorne Farr	
<b>Municipal Law Enforcement Officers' Association (Ontario) Inc Act, 1997,</b>	Bill Pr83, <i>Mr Tascona</i> . . . T-228
Mrs Helen Johns	
Mr George Cameron	
Ms Brenda Russell	
Mr Steve Kinsella	
<b>Chinese Cultural Centre of Greater Toronto Foundation Act, 1997,</b>	Bill Pr81, <i>Mr Curling</i> . . . . . T-229
Mr Alvin Curling	
Mr Ming Tat Cheung	
Mr David Tang	

### STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

**Chair / Président:** Mr Toby Barrett (Norfolk PC)

**Vice-Chair / Vice-Président:** Mr Marcel Beaubien (Lambton PC)

Mr Toby Barrett (Norfolk PC)  
Mr Marcel Beaubien (Lambton PC)  
Mr Gilles Bisson (Cochrane South / -Sud ND)  
Mr Tony Clement (Brampton South / -Sud PC)  
Mr Carl DeFaria (Mississauga East / -Est PC)  
Mr John Gerretsen (Kingston and The Islands / Kingston et Les Îles L)  
Mr Ernie Hardeman (Oxford PC); parliamentary assistant  
to the Minister of Municipal Affairs and Housing  
Mrs Helen Johns (Huron PC)  
Mr Gerard Kennedy (York South / -Sud L)  
Mr Tony Martin (Sault Ste Marie ND)  
Mr Tony Ruprecht (Parkdale L)  
Mr Derwyn Shea (High Park-Swansea PC)  
Mr Frank Sheehan (Lincoln PC)  
Mr Bill Vankoughnet (Frontenac-Addington PC)

**Substitutions present / Membres remplaçants présents:**

Mr Bill Grimmert (Muskoka-Georgian Bay / Muskoka-Baie-Georgienne PC)

**Also taking part / Autres participants et participantes:**

Ms Linda Gray, Ministry of Municipal Affairs and Housing

Mr Paul Murray, Ministry of Municipal Affairs and Housing

**Clerk / Greffière:** Ms Rosemarie Singh

**Staff / Personnel:** Ms Susan Klein, legislative counsel



T-22

T-22

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**Legislative Assembly  
of Ontario**

First Session, 36<sup>th</sup> Parliament

**Assemblée législative  
de l'Ontario**

Première session, 36<sup>e</sup> législature

**Official Report  
of Debates  
(Hansard)**

Wednesday 3 September 1997

**Journal  
des débats  
(Hansard)**

Mercredi 3 septembre 1997

**Standing committee on  
regulations and private bills**

**Comité permanent des  
règlements et des projets  
de loi privés**

Chair: Toby Barrett  
Clerk: Tom Prins

Président : Toby Barrett  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
REGULATIONS AND PRIVATE BILLS

Wednesday 3 September 1997

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS  
ET DES PROJETS DE LOI PRIVÉS

Mercredi 3 septembre 1997

*The committee met at 1009 in committee room 1.*JAPANESE CANADIAN CULTURAL  
CENTRE ACT, 1997

Consideration of Bill Pr84, An Act respecting Japanese Canadian Cultural Centre.

**The Vice-Chair (Mr Marcel Beaubien):** I'd like to bring the meeting to order. Before we start with the business in front of us today, I'd like to make a brief announcement. The Chair of the committee, Mr Barrett, will not be with us for the next few weeks, probably for the next couple of months, I would imagine, due to medical reasons.

**Mr Derwyn Shea (High Park-Swansea):** Would it be appropriate for us to express our best wishes to him?

**The Vice-Chair:** Certainly. On behalf of the committee, we can certainly undertake to send Mr Barrett a card.

The first order of business is Bill Pr84, An Act respecting Japanese Canadian Cultural Centre. The sponsor of the bill is Mr Turnbull. Could Mr Turnbull and the applicant please come forward.

**Mr David Turnbull (York Mills):** Good morning. I want to present Bill Pr84. This act will enable municipalities to pass certain bylaws allowing property tax exemption on the property and allow the municipalities to revoke that if it ever became necessary. I would like to ask the representatives of the Japanese Canadian Cultural Centre to give a brief presentation on the requirement for this.

**The Vice-Chair:** First of all, could the applicants introduce themselves, please.

**Mr Roy Kusano:** My name is Roy Kusano. I am a director of the Japanese Canadian Cultural Centre. To my left is Sid Ikeda, who is the president of the cultural centre, and to his left is Laura Oda, the brand-new executive director of the centre.

**The Vice-Chair:** Welcome. Do you have any comments that you wish to make on the bill?

**Mr Kusano:** First of all, I wish to thank you, on behalf of the centre and my colleagues here, for the opportunity to appear before you. I trust that the materials we filed, which we worked out in cooperation with legislative counsel and the clerk, are satisfactory to you and are fairly self-explanatory. To the extent that there are any questions arising out of those materials, any of the three of us will be happy to respond to them.

**The Vice-Chair:** Do we have any interested parties wishing to make comments on this bill? If not, Mr Hardeman, do you have any comments you wish to make?

**Mr Ernie Hardeman (Oxford):** I just want to say on behalf of the ministry that we do not register any objections to the bill. It meets all the criteria set out for this type of exemption. They have the commitment of the school board and the municipality in support of it, so we would not object.

I would point out, however, that in light of the changes the government is making in education funding, it may very well turn out that when that is completed, the school boards will no longer be in a position to cancel taxes. As the process is presently proceeding, the part of the education tax that will be on the property would be set by the province. So it is quite possible that in the future, these types of bill would be null and void as they relate to the education portion of the tax. I just want to make sure the applicants recognize that this is in the offing. Although we do not object to the bill now, that may very well, in the near future, change the impact it will have on you.

**Mr Kusano:** We appreciate the concern and the comments.

**The Vice-Chair:** Any questions from the committee members?

**Mr Tony Ruprecht (Parkdale):** I am familiar with the Japanese Canadian Cultural Centre. They have outgrown the necessary requirements of their activities and have done really outstanding work not only for Japanese Canadians but for the broader Canadian community. One of the major objectives is to ensure that the Japanese culture is not only maintained by Japanese Canadians but that other Canadians as well get to be beneficiaries of their great traditions.

We are very much in favour of this exemption, but as we have indicated on previous occasions — and this goes for all members who are trying to cut through red tape and having unnecessary deputations made to this committee. In the past, all parties have made recommendations to the Chair to try to work out some kind of process whereby deputants no longer have to appear before this committee or any other committees for this kind of purpose. I wonder, as our discussion has repeated itself on so many occasions, what has been accomplished or where we stand in terms of these kinds of issues, where I'm sure other cultural centres that would also like to be tax-exempt will appear over and over again in front of this committee.



Sometimes, as you realize, Mr Chair, they don't come just from Toronto. They come from outside Toronto. Appearing here and doing the necessary preparations take time and effort and money. I'm just wondering whether we could shortcut all this and find out from you what is the latest on that issue.

**The Vice-Chair:** Mr Ruprecht, that's a very good point you bring up today. It was brought up a couple of months ago, I think. I'm fairly new, the new kid on the block here on this committee, and was put in this position to take over for Mr Barrett because of his condition. There has been no discussion, but as Vice-Chair I certainly would be willing to undertake having discussion among committee members. I agree with your position that it seems redundant in some cases to have people come from Toronto or other locations in Ontario to go through a process which I don't think we really need to go through in 1997.

I'm sure we would need some feedback from the ministry on this particular matter, but I'm certainly willing to undertake some discussion and see how we can deal with this in the near future.

**Mr Ruprecht:** Mr Chair, I appreciate very much that you are going to be the caretaker, the man who is going to run with this ball. I'm just reminded that this has been an issue since 1991 and every Chair has said they are going to do something. I'm looking forward —

**The Vice-Chair:** I'll give you an undertaking that within a month you'll get an answer from me one way or the other that either we will do something or we won't do anything. Is that fair?

**Mr Ruprecht:** Can you imagine that within a month — and I hope only that you're going to —

**The Vice-Chair:** No, I said I'd give you an answer. I'll give you an answer as to whether we'll be doing anything or not. Is that fair?

**Mr Ruprecht:** I see.

**The Vice-Chair:** We'll do something. I'll get back to you. Any other questions?

**Mr Shea:** There are two questions I want to direct to the parliamentary assistant. I preface my comments by saying that I too support the bill that is before us and I want to thank Mr Turnbull for his eloquent presentation of the bill; I appreciate it. Not only is the Japanese Canadian Cultural Centre well known to this municipality for the contribution it makes and that it enriches the life of our community; it is a way to assist it to continue in that kind of outreach into the community of not only Japanese Canadians but of Metropolitan Toronto and beyond. I encourage that. There are a couple of sidebars to that, though, that are of concern to me that are indirectly related to the Japanese Canadian Cultural Centre. They are more generic.

A question I raise first of all deals with process. It picks up on the point we have discussed in this committee in the past when I occupied a different position, which I am delighted to say I no longer occupy. I'm so pleased that Mr Hardeman has to carry that now.

1020

It is my understanding that the Ministry of Municipal Affairs and Housing is reviewing the Municipal Act. It is going through a review of legislation and regulations. In my recollection, there was an undertaking from the ministry that it would be bringing back to this committee — I would think by now it would be in the next few months' time — some indication of changes that might take place in the Municipal Act and, case in point, how to deal with this issue precisely where there may be all-party agreement, and I don't mean "party" here, but in terms of school boards, municipalities and so forth, even though we have now found a way to effectively reduce much of that layering, so that we'd only have to have two letters of permission and perhaps not even that in the future. The parliamentary assistant has just alerted us to what that may mean in terms of the education side. So we may have found a way to streamline that already, but we need to hear from the staff of the ministry.

Could I ask the parliamentary assistant, Mr Chair, if he is at this moment aware of where we are in terms of those changes and whether the ministry is currently reviewing this process in light of the streamlining and amalgamations and so forth, and/or could he undertake to report back to the committee within, say, the next month or so about where we're at, what the timetable might be, to address the concerns if there are other applications of this sort? We see at least four, five or six every year, and we might indeed be able to short-circuit that procedure.

**The Vice-Chair:** You certainly may, Mr Shea, and I like your timeline of a month; I like that figure.

**Mr Shea:** I got you off the hook too, Mr Chair.

**Mr Hardeman:** Mr Chair, as it relates to this issue and expediting it along, I think we would all recognize that it is the taxing policy, not a municipal jurisdiction, we're presently involved in, particularly as it relates to both school boards and the municipalities. The municipalities could not make decisions through the Municipal Act as it reflects to education funding. Whether charitable organizations should or shouldn't pay taxes would be a taxing policy that would have to come from the Minister of Finance and the treasury.

I have corresponded with the minister to see if we could get some direction as to whether there is any policy coming forward that would change the need for these types of bills.

**Mr Shea:** I understand the subtlety of the parliamentary assistant's response. They are the words I probably would have used. Nevertheless, I want to perhaps rephrase my question. It is not the issue of whether municipalities should have the right to forgo taxes or give grants in lieu. That is not the issue. The issue for me is the process.

Right now the process requires an applicant to come to the Parliament of Ontario. Notwithstanding the fact that the applicant may well at this moment in time carry the imprimatur of the local council, the Metropolitan council, the local school board and the Metro school board, they still have to come to the Parliament of Ontario for the final laying on of hands. It's that process I'm asking the par-



liamentary assistant to speak to the minister about, whether that can be truncated so that where we may say an applicant need only apply to those funding or responsible jurisdictions and where they wish to waive or give grants in lieu, that's good enough for the Parliament of Ontario; they don't need to come here also to have a pat on the head and have us say, "Well done." I think the point raised is that this may be an unnecessary step. That's the only question I'm asking the parliamentary assistant to take back to the minister for consideration. I thought that may be what was under review.

The second question —

**The Vice-Chair:** Before you go on to the next point, Mr Shea, I think we'll give Mr Hardeman a direction that we need a reply by October 3. You said a month. Is that fair?

**Mr Shea:** Mr Hardeman has my absolute support and admiration and I know he will respond as quickly as he can. He is a man of honour and I don't need to pin him down with an exact date.

**The Vice-Chair:** All right, if you're satisfied with that.

**Mr Shea:** The second question I have for this issue, again to the parliamentary assistant, is about the increasing number of tax-free properties in some municipalities. Metro is one case in point that I'm most familiar with. It doesn't just involve historically and constitutionally tax-free units such as churches and so forth; it involves the Royal Canadian Legion, cultural centres.

What I'm concerned about is whether the ministry is of the opinion that municipalities ought to have a self-imposed cap of maximum dollar values tax-free that could be imposed within their municipality, whether there is any merit to that or whether we are of the opinion that municipalities will be prudent and need no such guidelines in terms of capping to make sure they don't go beyond that. Some municipalities don't have to worry about this to any degree at all. There are others such as Metro, it may well be Ottawa, London, Windsor etc, that are certainly under other considerable pressure for tax-free or grants in lieu.

I wonder if the parliamentary assistant has any comment about that or whether there would be any merit, if not in capping or in asking municipalities to consider capping, in having at least a requirement for public disclosure annually of all properties that are exempted and the value that they are exempted to at that point. Has there been any consideration or discussion of that?

**Mr Hardeman:** The member brings up an interesting scenario and I think it relates to the first question. The options would be to put into the Municipal Act giving the municipalities the authority to grant tax exemptions without approval of the provincial Legislature. That would eliminate the need to come to this committee. But then your suggestion in the second question is that that should not be an unlimited authority; there should be a limit set as to how many of those tax exemptions they should give and how public they should be about granting those tax exemptions.

The ministry has been looking at some of those options, but at the present time the authority of municipalities is

limited as to who they can grant tax exemptions to, recognizing that every time they grant someone a tax exemption, they charge someone else more tax. There is a need, I believe at this point in time at least — the ministers and ministries in the past have seen a need to make sure it was controlled, who they gave tax exemptions to, and this was the process that was deemed to be the most appropriate. We are looking at alternatives to see if there are better ways to meet the same need.

**Mr Shea:** I would think, and I appreciate the response of the parliamentary assistant, that the interaction of the actual value assessment may provide a remarkable moment to be able to introduce some of these refinements. It is enabling legislation for municipalities, but the concept of public accountability is equally important. I simply leave those comments with the parliamentary assistant for his guidance to the minister and conclude my comments by saying I am absolutely supportive of the application that is before us today. I speak very highly of it and I hope we will unanimously support the recommendations.

**The Vice-Chair:** Any other questions from committee members? If not, are the members ready to vote? Can we collapse the votes on sections into one? Agreed?

Shall sections 1 to 11, inclusive, carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Thank you very much, sponsor and applicants.

**Mr Kusano:** Mr Chairman, on behalf of the centre and my colleagues here, I thank you and the committee and the province of Ontario very much.

1030

## CITY OF SCARBOROUGH ACT, 1997

Consideration of Bill Pr78, An Act respecting the City of Scarborough.

**The Vice-Chair:** The next order of business is Bill Pr78. Mr Dan Newman is the sponsor. I see you're already at the table, Mr Newman. Could you introduce the applicants, or do you wish the applicants to introduce themselves?

**Mr Dan Newman (Scarborough Centre):** I will, Chair. I am here today with Jasmine Stein, a solicitor with the city of Scarborough, and Don Mitton, manager of the City of Scarborough Animal Centre.

I'd like to begin by saying that it is a pleasure to be here before the committee today as the sponsor of Bill Pr78. I don't want to take up too much of the committee's time because I know there are a number of individuals who want to make deputations here today. I would like, however, to take a few moments to provide the committee with the background behind the bill I am sponsoring.

When I was elected in June 1995 as the member for Scarborough Centre, I never would have imagined that perhaps the most pressing issue I would face would be leghold traps within my riding, but that is why I am here appearing before the committee today. My constituents



have asked me to be here; my constituents have made this the most important issue in Scarborough.

The committee may find it hard to believe, but let me assure you that I am not exaggerating when I tell you that leghold trapping in Scarborough has been the issue I have heard the most about from my constituents. My office has received more calls and letters on this issue than on Bill 26, Bill 103, Bill 104, Bill 136 or anything our government has done.

Back in December 1996 my office started to receive calls from constituents concerned that an area resident was trapping and killing foxes in the middle of our community. Stories came in about residents, some children, who could hear the cries of dying foxes caught in the trapper's leghold traps. Several reports came in about residents seeing this trapper walking down the street with a dead fox slung over his shoulder. This is in Scarborough, in an area full of domestic pets and little children. Not long after this, I met with local Scarborough councillor Harvey Barron from ward 1 and some area residents who asked me to take this issue to Queen's Park so that the city of Scarborough could be granted the ability to introduce a bylaw to ban the use of leghold traps within its boundaries.

I don't want the committee to misunderstand me, because I certainly understand the importance of trapping to a number of communities across this province. As the former parliamentary assistant to the minister responsible for native affairs and now as the parliamentary assistant to the Minister of Health, I have had the opportunity to travel to many rural and northern parts of this great province and I have been able to see at first hand the differences that exist in those parts of the province versus my part in Scarborough. This private bill does not approach any issues for northern or rural Ontarians. It only addresses the issue of leghold traps within the boundaries of the city of Scarborough, an urban environment. Just what the city of Toronto currently has is what the people of Scarborough want.

There are a number of presenters speaking here today who will be able to shed more light on this issue and to speak to more technical matters, but I felt it was important to address you today on behalf of my constituents to give you a chance to see why this issue is of importance to them and why this piece of legislation needs to be passed by the Legislature.

This issue goes to the heart of people's concerns. All of us, no matter which political party we belong to, can understand their concerns. This issue is more important than cutting taxes, more important than amalgamation; it is about the safety of their children, their pets and their communities. To stand against this bill is to tell my constituents that their safety is not important. I look forward to hearing from the deputants before you today.

**The Vice-Chair:** Thank you. Now we're ready to entertain the comments from the applicants.

**Ms Jasmine Stein:** My name is Jasmine Stein. I am a solicitor for the corporation of the city of Scarborough. I will try to keep my comments brief in light of the number of speakers you have before you today.

The bill we are presenting is very simple and straightforward in its purpose and intent. It has primarily one important objective, that is, to remove the potential danger these leghold traps pose to public safety, most particularly to small children and domestic pets. It is the city of Scarborough's position that the use of these traps is unnecessary and inappropriate in an urbanized environment. They serve no purpose which cannot be achieved by other means which present less risk to children and domestic animals and which present a more responsible and ecologically sound approach to resolving wildlife conflicts. We do not believe that this bill is overly restrictive or unduly prohibitive to wildlife management but will promote and encourage alternative means of wildlife management which will protect public health and safety and at the time maximize humaneness and safety for wildlife.

I have had an opportunity to review some of the issues raised by the OFMF in their submission in opposition to the bill. I'd like to address briefly some of those issues and then turn the floor over to Mr Mitton, who can speak in more detail from an animal control perspective.

The federation has expressed concern that the passage of this bill may involve the spread of rabies. As a result of various programs currently going on in the city of Scarborough, rabies has been virtually eliminated in the city's wildlife population. We believe that these programs will continue to be effective in the control of rabies and that banning the use of leghold traps will not result in an increased risk of rabies; nor do we anticipate that the city's budget for the removal of nuisance animals will be impacted to anywhere remotely near the extent the federation suggests. The fact that Holland pays in excess of \$30 million per annum to control its muskrat population simply is not a valid comparison. We do not anticipate a higher incidence of nuisance and problem animals if this ban is imposed as there are other effective means of controlling these populations.

It has also been suggested that the authority of the city of Scarborough to legislate trapping on private lands is a legal question, as this falls within provincial jurisdiction. Clearly we readily acknowledge this, and that is exactly why we are here today.

It has also been suggested that under the international agreement on trap standards before the European Union involving Canada, leghold traps are considered to be legal, humane and appropriate for use in fur management programs. I would like to make it perfectly clear that we are not here to ask you to make leghold traps illegal and we are not suggesting that there are not circumstances where their use may be appropriate. What we are asking for is that the use of leghold traps in the city of Scarborough be prohibited. We acknowledge that there may be some circumstances where the use of leghold traps is appropriate and a viable option. However, we do not believe this to be the case in the city of Scarborough. We believe their use is not appropriate in an urbanized environment such as Scarborough.

The city of Scarborough fully understands its responsibilities with respect to control of nuisance wildlife and



towards public health and safety. We believe that a humane and effective balance can be achieved through the implementation of the city's wildlife management strategy without the use of leghold traps. The use of these leghold traps poses a potential risk to domestic animals and young children which is unacceptable and which the city of Scarborough would like to see eliminated.

Those are my comments. I'll turn the floor over to Mr Mitton at this point.

1040

**Mr Don Mitton:** I'm Don Mitton. I'm here today, in my capacity as the manager of the City of Scarborough Animal Centre, to voice our support for the bill before you. The City of Scarborough Animal Centre is the division within the city of Scarborough responsible for animal control and pet adoption. Although the primary focus of the animal centre relates to domestic pets, our resources are called upon frequently to address citizens' concerns regarding conflicts with our wildlife species.

Prior to 1994, the animal centre provided citizens with the opportunity to borrow live-capture traps. The number of wildlife captured and euthanized using this method frequently exceeded 1,000 animals per year. This program appeared to have no significant impact on the wildlife population, as subsequent litter sizes increased to meet the environment's carrying capacity. Due to this program's ineffectiveness and philosophical difficulties in supporting the number of animals euthanized, a strategy was implemented in 1994 which takes a more ecological approach towards resolving wildlife conflicts.

The Scarborough Animal Centre, through its trap loan program, captured and euthanized 1,416 wildlife in 1985. It is interesting that in the same year, 38 rabid animals were confirmed in the city. The Ministry of Natural Resources introduced a limited trap, vaccinate and release program in a large area of Scarborough in the same year. Skunks and raccoons were captured in live-capture traps, vaccinated for rabies and released at the capture site. A more extensive program was undertaken in 1987. Between 1987 and 1991, the Ministry of Natural Resources captured 3,221 skunks and raccoons. They estimated that this was approximately 60% of the population. The rabies vaccine used was found to be almost 100% effective in stimulating antibody response. Although the trap, vaccinate and release program is costly, it is a very cost-effective means of rabies control when considering the high cost of treating human exposure. The Ministry of Natural Resources data for this period between 1987 and 1991 indicate the capture of 2,365 cats. Trapping methods other than live-capture traps would have resulted in injury and perhaps death for a significant number of these pets.

The Ministry of Natural Resources also immunizes a great proportion of the resident fox population. This is performed by hand distribution of oral rabies vaccine bait in areas frequented by foxes. Annually, several thousand of the baits are placed in Scarborough.

These ongoing programs in Scarborough have resulted in the virtual elimination of rabies in our wildlife population.

Looking Ahead: A Wildlife Strategy for Ontario, the product of a Ministry of Natural Resources working group, recommended a number of strategies. One of the recommendations relating to human-wildlife conflicts stated: "Greater emphasis should be placed on public education and extension programs in dealing with problem wildlife. Tolerance of minor nuisances should be encouraged." With this in mind, the Scarborough Animal Centre developed a wildlife policy statement which was adopted by the city of Scarborough council in January 1994.

The wildlife strategy encourages an ecological approach towards urban wildlife management. The key to this strategy is the elimination of unwanted denning sites. This is performed by the property owner following an assessment by animal centre staff. In a vast majority of cases, the animals choose other denning sites which will not result in conflicts with the property owner. Removal of the animal is only considered when recommended prevention methods have failed. Further, trapping will not be performed when there is a possibility that young, unable to survive on their own, would be separated from their mothers. In 1996, of the 139 wildlife handled by the animal centre, only nine were not injured or ill, and all the traps utilized by the animal centre are Tomahawk live traps which do not injure the animals.

We believe that the Ministry of Natural Resources rabies vaccination programs have proven to be very effective and that the issue of rabies control by the use of leghold trapping is not germane to Bill Pr78, An Act respecting the City of Scarborough. Further, human-wildlife conflicts can be resolved in a manner which does not pose safety concerns to the citizens and domestic pets in Scarborough. The animal centre asks the standing committee on regulations and private bills to approve the city of Scarborough council's request that Bill Pr78 be enacted. Thank you.

**The Vice-Chair:** Thank you, Mr Mitton. Now for interested parties, I'll start in the order listed on the agenda. I call Ms Ainslie Willock to come forward, please. Before you start, I would like to caution all the presenters that I will allow two minutes for your presentations, because we have a number of presenters. Is that satisfactory?

**Ms Ainslie Willock:** I think that is a little brief, but I'll do my best, if someone could let me know when I'm almost at my two minutes.

Mr Chair and standing committee members, thank you for this opportunity to speak on this important issue. I am a director of the Animal Alliance of Canada and the Canadian Alliance for Furbearing Animals. I am also a member of the Canadian General Standards Committee on Mammal Trapping. I've worked on the leghold trap issue for over 10 years.

In December 1996, I received calls from Scarborough residents who were upset that a fox had been heard screaming in a leghold trap. Dick Singer of the Scarborough Mirror writes:

"The cries of the trapped fox shattered the quiet of the Cliffside community, disrupting the Saturday afternoon routine. The animal had been screaming some time before



a neighbour called me to ask what could be done.... The fox was caught in a leghold trap. With each tug, the heartless steel trap dug deeper. The animal's gyrations made it impossible to help. The police and humane society were called. Eventually, two officers arrived, but the fox ripped free and bolted. We investigated the compost bed where the animal had been. There, among the leaves, we discovered two leghold traps, an animal's carcass and fruit. Then Peter, a young resident, stepped on a trap. It clamped on his boot and he screamed in pain."

Residents don't want their children to witness such cruelty again. They want to know that their wildlife, pets and children are safe from leghold traps. That's why we're here today.

This would be a simple request, one that has already been granted by the province to the city of Niagara Falls and the city of Toronto, except that trappers and fur interests want to ensure that leghold traps continue to be used. They will give you every reason to convince you that leghold traps are necessary.

They say that leghold traps prevent the spread of disease. Yet MNR rabies expert Dr Rosatte states in a letter to me which is part of a package to this committee, "MNR scientists believe that the best strategy to manage fox rabies in Ontario is through oral vaccination with vaccine baits and not through removing animals from the population by trapping." Dr. Rosatte also told me that he does not use leghold traps and that he monitors the effectiveness of the vaccine through examining road-killed foxes and foxes incidentally caught in live box traps for raccoons. The incidents of rabies in wildlife has been dramatically reduced by the vaccination program. It's a fact that trapping animals doesn't control rabies; vaccination programs do.

Fur interests will tell you that leghold traps are economical for municipalities to use and necessary to control human-animal conflicts in an urban environment. The reality is that the city of Toronto and the city of Scarborough both have written letters stating that they have saved money by implementing new wildlife policies. Rather than trapping animals, the cities encourage an ecological approach to wildlife conflicts. Property owners are encouraged to modify their environment to eliminate conflicts by reducing or eliminating food and shelter opportunities. Jim Bandow, general manager of the animal control services for the city of Toronto, states, "There has been no activity in the city that could have been more effectively done with leghold traps."

Trappers will tell you that leghold traps are humane and that an international agreement on trap standards between Canada and Europe will allow for leghold traps. They won't tell you that Europe has banned the use of leghold traps in Europe and that the so-called standard is designed to avoid an international trade dispute.

The fox in Scarborough cried out in pain for a long time while residents tried to get someone to help. The fox was subject to great stress as the public tried to help it, such stress that it pulled itself free of the trap. This is a photo of a trap; it was just taken a few days ago in the city

of North York. The same trapper is trapping up in North York, and the residents up there are outraged, and I predict that the same thing is going to happen up in North York. Also, a picture of a blue jay caught in a leghold trap; the trap was set for the fox and it got a blue jay. Again, this picture was just taken a few days ago.

I was going to set the trap off for you, but the two minutes I don't think allows for that.

**The Vice-Chair:** I'll give you three minutes.

**Ms Willock:** You'd like to see that? I'd love to do it for you. I will do it for you, then. I'll do it at the end.

Foxes can be live-trapped in an urban environment, and the Toronto Wildlife Centre is here to speak to you about alternative traps for certain circumstances.

We don't need or want leghold traps. The real issue is that trappers want to use leghold traps in urban environments. They want to use them because they are economical and light and easy for a trapper to use. We don't think of cities as trap-lines, but to a trapper our city ravines provide perfect shelter and a food supply for wildlife. They want to trap wildlife in the city and sell their skins to the fur industry for profit.

Trapping animals doesn't solve any perceived wildlife problem; it just creates a space for another animal, animals that trappers are more than willing to trap in a leghold trap.

Trapping animals doesn't control rabies or human-animal conflicts and is an outmoded approach and simply doesn't work. Trappers are out of touch with the rest of society. We know that when people see an animal struggling in a leghold trap their instinctive response is to help the animal. Their next instinct is to ban the trap. Even in an urban environment, trappers refuse to admit that there is a problem using leghold traps.

#### 1050

I respectfully ask this committee to listen to the urban animal experts and the wishes of Scarborough residents and ban the use of leghold traps in their community to protect children, pets and urban wildlife. Leghold traps have no place in our cities. We commend Scarborough residents, Harvey Barron, councillor for Ward 2, and Scarborough council for passing a resolution to ban leghold traps. I'd like to thank Dan Newman, MPP for Scarborough Centre, and his staff for working hard to bring forward Bill Pr78 to enable Scarborough to ban leghold traps, just as the city of Niagara Falls and the city of Toronto have done.

Would you like me to set it off?

**The Vice-Chair:** Sure, for demonstration for the committee.

**Ms Willock:** This is a soft-patch coyote trap, a padded trap similar to the one being used by the trapper in the city of Scarborough and North York. It's slightly larger because it's designed for a coyote rather than a fox.

**The Vice-Chair:** Thank you very much for your presentation, Ms Willock.

The next interested party is Ms Liz White.

**Ms Willock:** Any questions?



**The Vice-Chair:** I'm sorry; we'll do the questions after, if you don't mind.

**Mr Newman:** On a point of order, Mr Chair: I know you've ruled that the presenters can only have two minutes, but given the fact that many of these people have taken time off work to be here today and travel to Queen's Park and have really taken the effort to be here, I'd request that all presenters be given an adequate amount of time to present their case, either for or against the bill.

**The Vice-Chair:** Mr Newman, we have 11 presenters and it is now 11 o'clock. I have given Ms Willock more time than the two minutes. I would like to have the presenters keep their presentation to around three minutes. I'm not going to be very strict on the enforcement of the ruling, but we do have only an hour left.

**Mr Newman:** Just the fact that there are 11 presenters tells you how important this bill is.

**The Vice-Chair:** Yes, thank you.

**Ms Liz White:** Good morning, everybody. My name is Liz White. I'm a director with the Animal Alliance of Canada. You have a package of material. It's the one with the little animals in the square. It has attachments to it, including the letter from Dr Rick Rosatte, who is with the Ministry of Natural Resources, who states quite clearly what his opinions are vis-à-vis rabies and the vaccination program, as opposed to the trapping argument with rabies.

I very much thank the committee for providing us with this opportunity to come and talk to you today. Animal Alliance recommends to the committee passage of Bill Pr78. I don't know whether this makes it more difficult, but I'm none the less going to raise it: I think there's another thing that needs to be added and I don't know whether this is the bill to do it, so you can instruct me on that at some point. Body-gripping traps, as in conibear traps and neck snares, are also not appropriate devices to be in the city and are also dangerous to pets and to children and to animals that get trapped in them. I think it would be worth while looking at an amendment to the legislation to include those. Whether we can do that in this bill, I don't know.

The second thing is that I think the bill needs to be clear as to what the offence is and the amount of the offence. Either that or it's attached directly to the piece of legislation that will go through the city of Scarborough. Anyway, those are my recommendations.

I just wanted to touch very briefly on a couple of topics which others — so I won't dwell on them. I wanted to point out that Murray Monk, who is the president, I believe, of the Ontario Fur Managers Federation, wrote in a letter to the committee that passing a bylaw would give the city back its reputation as the rabies capital of the world; the implication is that there would be a spread of rabies in the city of Scarborough and very serious health hazards resulting from that.

The information that has been presented to you today indicates that it has turned out to be entirely the opposite scenario, that the trap-and-vaccinate program and the aerial drop of rabies oral vaccines for foxes has worked to the point where there have been virtually no reported

cases in Metropolitan Toronto, not just in the city of Scarborough. Although the program they have developed — and it is a Ministry of Natural Resources program — has been supported by a number of urban municipalities and rural municipalities that are participating in the program, it is none the less the Ministry of Natural Resources' own program that it has developed, that has worked in a much more effective way than previous programs that have been around to address rabies. I encourage you to take a look at that particular issue carefully with regard to the human-animal conflict issue.

We're constantly faced with this problem of people concerned about animals and their impact on their environment. We've worked very hard with the Ministry of Natural Resources, with the Ontario Wildlife Working Group a number of years ago, with Ministry of Natural Resources staff now and with a number of municipalities — it's my program that I work with — in trying to get people to look at human-animal conflicts differently, that you don't always have to go and shoot the animal or trap the animal or even remove the animal from the environment.

In many situations, the best response to the situation is to simply leave the animal there. We dealt with the pictures. The reason the trapper was asked to come in and remove foxes from the area in North York is that people had seen these foxes out during the day, and because they had seen the foxes out during the day there was an automatic assumption that these animals had rabies. There was no basis for the assumption, and in fact the foxes were, as far as I could tell from conversations with people, of very little bother. But there was this paranoia.

I think we need to go through a much more in-depth education program, and the city of Scarborough had demonstrated that. They've sat down and thought about what the policies were, put the policies forward, had public discussion, had it submitted to council, and this has resulted in, guess what? Saving of money. I think that's what everybody around the table is interested in. We've talked about it, about trying to reduce budgets. The end result of teaching people how to survive in their own environment means the city doesn't have to go out and trap the animals in the same way that it did before. That's true in the city of Toronto, it's true in North York, it's true in the city of Etobicoke, it's true in much of Metropolitan Toronto, and it's true in many urban environments where there has been an active approach to try and change how people relate to animals and begin to teach people how to understand their behaviour. The city of Scarborough doesn't need to have the leghold trap because they don't bother trapping most of the time, and for those animals they do, they use live traps.

We've had much discussion. I sit on the Canadian General Standards Board trapping committee. Howard Noseworthy, who's with the Ontario Fur Managers Federation, has also sat, and we've had many lively discussions about leghold traps. The fact is that animals trapped in urban environments are quite different from animals trapped in rural environments. In some situations, padded traps do



cause less injuries. Those are the results of some of the studies that have been looked at. In the wild, an animal may simply lie down and wait. They may struggle, but they may lie down. In an urban environment, where they are on the edge of a ravine where people are walking their dogs, people are walking and children are playing, there is a perpetual stress on those animals. What you find is that they thrash and run and try and get away and yank on their limbs, and as you'll see by some of the pictures that are going to be presented today, there are more injuries. In an urban environment, it's our view that leghold traps, certainly in those sorts of circumstances, are simply cruel and there's a great deal of suffering.

I would urge the committee today to pass the bill, and if there's a possibility to amend it to improve it, I would appreciate that. I don't know whether that's possible.

**The Chair:** Thank you, Ms White.

The next interested party is Mr Robert Gardiner.

1100

**Mr Robert Gardiner:** Thank you, Mr Chair, and members. I am speaking today as president of the Canadian Association for Humane Trapping and chair of the trapping committee of the Canadian Federation of Humane Societies.

The Canadian Association for Humane Trapping has been involved in finding better ways to trap since about 1945. I'm the president and have been a director since 1972. I've been involved in the research of the federal-provincial committee for humane trapping, at the current research situation at the Fur Institute of Canada. I've been a member of the Canadian General Standards Board, attending over 40 meetings on trap design and standards, and the International Standards Organization. I'm a director of the Fur Institute of Canada and I'm involved in trapper education, regulations and trap research in that organization.

The Canadian Association for Humane Trapping is not opposed to trapping. We work with trappers and governments to find every possible way to make traps more humane. The Canadian Federation of Humane Societies has 110 members of animal welfare organizations across Canada and over 200,000 members of that. They are opposed to the trapping of fur and for recreation, but they work for all humane trapping improvements. I was involved in the drafting of the Canadian wildlife guidelines, the International Union for the Conservation of Nature's statement for improved trapping and various other initiatives.

The International Union for the Conservation of Nature passed recommendation 1,825. Some 135 world governments followed the policy that was promoted, primarily by Canada, to say that non-target animals should be released without injury; traps should be regularly visited; members should ensure that the most humane and selective techniques available are employed in the capture or killing of wild animals; and the 135 world governments agreed that there should be a goal of eliminating as soon as practical the use of inhumane traps throughout the world. They also

adopted a wildlife policy that said people should protect wild animals from cruelty and avoidable suffering.

Just another perspective we have in Canada is our Criminal Code. Clause 446(1)(a) says that every person commits an offence who wilfully causes or, being the owner, wilfully permits to be caused unnecessary pain, suffering or injury to an animal or bird. That's been construed in several cases, including *Regina v Menard*, which says that when they defined this kind of cruelty in the Criminal Code they intended to prevent causing injury to an animal or pain or suffering that could have been reasonably avoided for it, taking into account the purpose and the method used.

The Canadian wildlife guidelines came up with what the provinces should be legislating. In article 7.7 of that, they said legislation regulating uses of wildlife should be enacted and enforced to conserve wildlife populations and ensure that all uses are sustainable and that the uses of wild animals are humane. There should be penalties for enforcement and they should be an effective deterrent to illegal use of wildlife. They go on, in article 7.10, to make other provisions about humane use.

There are various policies, if anyone wants to follow up, of the Canadian Veterinary Medical Association, the Canadian Nature Federation and the Canadian Federation of Humane Societies about the kind of selective trapping that the city of Scarborough is working on.

Some recommended international trapping regulations promoted by CAHT said that only box-type live holding traps and other ISO-approved holding devices not dangerous to children or pets should be used to trap animals within 400 metres of a residence. Such live holding traps must be set in sheltered, protected sites and must be tended at least once every 12 hours, including the early morning, which is the most important time.

There are various public opinion polls that show that in general about 80% of Canadians disapprove of the use of the leghold trap. For instance, the national Angus Reid poll showed that.

The federal-provincial committee for humane trapping in 1981 said that 17 of 21 species should not be used in leghold traps. Ed Philip, an NDP member, brought forward Bill 59, which would prohibit traps other than box traps in municipalities. I thought that was passed into law in Ontario. I just haven't had time to look that up since I got involved in this last night.

However, I was involved in and drafted Bill 154 on behalf of Ed Philip. It was introduced and was in fact passed by the Conservative government in 1985, with the cooperation of the Ontario Trappers' Association. It removed the leghold trap from land for 13 species. The only exceptions were wolf, fox, coyote, bobcat and lynx. There are various other provisions in there. Those have been picked up across Canada. There are 12 trapping regulations across Canada that significantly remove use of the leghold trap.

I concur with the earlier comments about rabies control. Leghold trapping does not improve rabies control, whereas the other modern systems do, as used in the city



of Toronto and the city of Scarborough. Jim Badow's work in the city of Toronto is well known across North America and highly regarded.

The bill before you is a good first step and I certainly support it, but I recommend that you look at the city of Toronto provision which defines the leghold trap and a snare. More important, look at the legislation you approved for the city of Ottawa because it has the best by-law. Their bylaw number 253/79 defines a killer trap, a leghold trap and a snare. It says: "No person shall use, set or maintain any leghold trap, killer trap or snare in any area within the city that is not enclosed in a building or structure, unless such use is otherwise authorized by or under the direct supervision of the Ministry of Natural Resources of Ontario." There's a \$5,000 fine that's levied there, and importantly, they can have a prohibition order to stop anyone from trapping if they're in breach of that.

The resolution that came forward from the city of Scarborough itself called for regulating body-gripping traps, including leghold traps. It's a hugely important consequence. People seem to think that leghold traps are the big problem, but when you're in an urban area, you have to think about children and pets, and body-gripping traps can do much more damage than a leghold trap can. A leghold trap will only break a limb, fractures, ligament damage, that sort of thing, in most cases, whereas the body-gripping trap is a killing trap.

The Ministry of Natural Resources of Ontario in 1990 issued a memorandum by its wildlife director pointing out that of 144 trappers who attended the Ontario Trappers' Association convention that year, about one half of the trappers no longer set leghold traps on land.

**The Vice-Chair:** Would you wrap up your presentation, Mr Gardiner, in the next minute.

**Mr Gardiner:** Okay. I've got a host of research that would show the types of injuries that are done, but to give you a quick example, steel-jawed traps in coyote would cause injury to their ligaments about 95% of the time; a joint subluxation, which is tearing of the joint, 38% of the time; fractures 91% of the time. If you're interested, I have statistics on raccoon and fox and other items like that.

The Ontario statistics are well known across the world for capturing of untargeted species such as dogs and cats. Refer to Milan Novak's research on that. About one in 10 captures on a trap-line would be domestic animals, and small mammals might be from one in 10 to five in 10; it depends on the trapper and where it's set. For anybody who wants to get involved in municipalities in trapping, look at *Alternative Traps* by Tom Garrett from the Animal Welfare Institute. There are several other recommendations I can make, but I'll close with these following recommendations:

The City of Scarborough Act should be passed, but follow the model for the city of Ottawa because you'll get much better legislation for an urban situation. Put in body-gripping traps, a penalty and the right for prohibition.

The provincial Game and Fish Act should prohibit body-gripping traps, leghold traps or neck snares within 400 metres of a residence.

Amend the Municipal Act to allow all municipalities to regulate use of traps within their boundaries.

There should be twice-daily inspection in urban areas, especially in the morning.

The Ministry of Natural Resources should focus on urban trapping as an issue that is separate from rural trapping.

**The Vice-Chair:** Thank you very much, Mr Gardiner, for your very informative presentation, and by the way, I think I gave you nine minutes. The next interested party is Ms Karin Eaton.

1110

**Ms Karin Eaton:** I'll make mine short. Mr Chairman, members of committee, thank you very much for allowing me to come and add my voice to those who support a ban on leghold traps in Scarborough. I come here as a resident of Scarborough, and in particular of Scarborough Bluffs. I come here because I was appalled through the local media to discover that leghold traps were licensed. I had no idea that in this day and age in an urban setting they were licensed. My children, who are grown up, who are quite extremist in this area, were shocked and so are my neighbours.

Let me tell you just a little bit about our neighbourhood. Those of us who live there feel very privileged. We have discovered a very special part of the city. We think we live in the best part of the city, in fact. It's a part of the city where nature and the urban environment blend very well. We have beautiful parks, some of them natural; some of them are manicured. We have ravines, we have the magnificent bluffs and we have the lake at our feet. In that, we have beautiful manicured homes, very carefully kept gardens and lovely homes. We're very proud of our area and we're very proud of living in harmony with nature.

Everybody who lives in the area knows the family of foxes that lives at the Hunt Club. We were distressed when one of them was run over on Kingston Road. Even at the Scarborough Civic Centre there's a family of foxes that has been raised there by a fox mother that had damaged her leg, and so she chose to stay in that environment, where she felt safe, I assume. On the Internet they keep a regular update on this family. This is the kind of caring community we are.

You'll find rabbits that live in the shrubbery around the city of Scarborough. I'm lucky enough to work in one of these idyllic office situations right in a park. It's a natural park, Harrison estate, and it overlooks the bluffs. When I look out of my office window, what I see is a park and birds and butterflies and squirrels, and one day this spring I saw a fox running across the park. The person on the other end of the phone whom I was speaking to in a stuffy downtown office was kind of surprised when I yelled and said, "Oh, there goes a fox." It lifted my day and it lifted his day. This is the kind of environment we really appreciate and honour as we live there.



But let me tell you it's much more likely that I'll look out of my office and see people walking across the park. This is a people place and this is what our neighbourhood really is. There are people who walk their dogs, and children and families. There are joggers and there are cyclists. We're a community of friendly and caring and warm people and we are distressed when we hear anybody or anything in distress. We don't want this happening in our neighbourhood.

We live on the edge of the city of Toronto. We're right there, and in the city of Toronto they have banned leghold traps. In January, these borders are going to blur. It's time perhaps to start thinking about equalizing this ban across Metro. But for myself, I'd just like to say that all remnants of rural life have disappeared except for a few fruit trees that are still in some of our front yards, and we're an urban setting and a neighbourhood of caring people who love the animals and who really would like to support this bill on behalf of all the residents.

**The Vice-Chair:** Thank you very much for sharing your comments with the committee, Ms Eaton.

The next presenter is Mrs Ann White.

**Mrs Ann White:** I thank the Chairman and the committee for allowing me to come here and add my voice to those who are in favour of banning the leghold traps. I have very few words to say, really. It's just to repeat what I said in my letter. I think the committee members have a copy of my letter, where I said:

"With this letter, I would like to add my voice and support to the application mentioned above. Not only are such traps cruel and painful, but their use within a community of families with children and pets presents a great danger. A bylaw to prohibit the use of these traps within urban and suburban boundaries is necessary."

I've lived in Scarborough for 21 years. I raised three daughters, who are now grown, a dog and three cats, and I just cannot imagine that anybody would use leghold traps within a community and neighbourhood where children can walk and run around. You cannot always control them. The pets might get into these traps. Even though the gentleman earlier on mentioned that leghold traps might only — he said "only" — cause a fracture on the leg, I think it's just too much; it's just too bad.

There's no need for this, but I add my voice to Liz White's, who mentioned that an education program for the whole population might be a very good idea. Perhaps that could be started with children in the schools so people and families learn to live with wildlife, rather than eliminate it or catch it or disfigure it.

I want to thank you again and I hope this bill goes through.

**The Vice-Chair:** Thank you for your comments, Ms White.

The next interested party is Mr Howard Noseworthy.

**Mr Howard Noseworthy:** Thank you, Mr Chairman. The Ontario Fur Managers Federation wishes to speak in opposition to Bill Pr78.

By way of introduction, I would say that my name is Howard Noseworthy. I am the general manager of the

Ontario Fur Managers Federation. I am a member of the Canadian General Standards Board committee on the development of humane trap standards, and was a member of the working group which developed the Canadian killing trap standard approved by the Standards Council of Canada for use within Canada earlier this year. I am also a member of the working groups developing Canadian restraining and submersion trap standards.

I have served and continue to serve as a member of the Canadian advisory committee to the International Organization for Standardization technical committee 191, developing international trapping standards, and was a member of working group IV developing performance criteria for these standards.

As past president of the Canadian National Trappers Alliance, I sit on the CNTA committee monitoring and advising on the implementation in Canada of an agreement on international humane trapping standards, a tripartite agreement between Canada, the Russian Federation and the European Union.

I can say without fear of substantive contradiction that Bill Pr78 is redundant and unnecessary in its scope and intent. A prohibition of the use of leghold traps within the city of Scarborough will not improve trapping or animal welfare. It will undermine the sustainable harvest of wild furbearer populations and the ability to control problem animal populations.

The tenet of the bill, to ban all limb-restraining devices for the capture of animals, contradicts the indisputable fact that all these devices are not the same in design or in operation. An analysis of restraining traps by national and international committees charged with the development of trap standards has led to the conclusion that box and cage traps are just as likely as limb-restraining devices to cause injury to animals and are equally in need of standardization.

Traps are neither inherently good nor bad. To adequately control wild animal populations particularly in problem situations in urban areas, a variety of devices is necessary. There is no single magic trap that is good for all species. Neither are all the traps targeted by Bill Pr78 bad. There is simply a range of devices, some better, some worse, which are employed in the harvest and control of wild animals.

What makes Pr78 redundant and unnecessary is the fact that what it attempts to do is already being done on a provincial, national and international basis, and being done in a far better manner than unilateral action by a single city.

The Game and Fish Act and regulations in Ontario restrict the type of traps that may be used, the species for which they may be used, the frequency with which traps must be checked, who may use these traps and in what situations. Trapping in Ontario is already highly regulated and well controlled.

The new Fish and Wildlife Conservation Act currently before the Legislature attempts in part to give landowners the right to hire agents of their choice to control problem animal populations on their own property. This right of



choice to deal with problem animals in a timely and less cumbersome manner than at present is undermined by Bill Pr78.

Canada is the first country in the world to develop standards designed to ensure that traps are both humane and efficient. A Canadian killing trap standard was approved earlier this year, and restraining and submersion trap standards are likely to be completed by the end of the year. These standards are being developed with the input of regulators, animal welfare organizations, trappers and other wildlife professionals. With all due respect to the architect of Pr78, I cannot imagine that he has more insight into the humane treatment of animals in trapping situations or more expertise in the necessary control of animal populations through the use of traps than have the almost 40 organizations and experts who have combined their resources to develop a trap standard which serves as a model for the world.

1120

Canada was instrumental in the successful completion this year of a tripartite agreement on international humane trapping standards and has attached a declaration to this agreement which says in part, "Based on the results of testing already available, the use of conventional steel-jawed leghold restraining traps shall be prohibited ...commencing...1999."

Rather than throw the baby out with the bathwater, the agreement recognizes that replacements must be found for the devices that will eventually be banned. The agreement takes the sensible and necessary approach that we cannot ignore the control of problem furbearers even if we wish to change a particular tool of that control. In keeping with the intent to develop a level playing field for the determination of what is best and a true effort at ongoing improvement, the international agreement provides time for the development of replacement devices.

Bill Pr78 flies in the face of already stringent Ontario regulations governing trapping, the right of landowners to protect themselves and their families from problem animal populations, Canadian scientific and technical standards developed by a multiplicity of experts and an international agreement to which Canada is signatory. It does so without considering the potential ramifications for human health and safety and without having considered a preponderance of the evidence that trapping in Ontario is already well regulated.

Bill Pr78 is potentially harmful to the Canadian standards process and to the implementation of an international agreement. It is potentially harmful to the uniform humane treatment of animals in trapping situations. More than anything else, Bill Pr78 is redundant and unnecessary and should be withdrawn.

**The Vice-Chair:** Thank you very much for your presentation, Mr Noseworthy.

The next presenter is Ms Christine Mason.

**Ms Christine Mason:** Thank you for allowing me this opportunity this morning to address the issue of Bill Pr78. My name is Christine Mason. I am employed by the Ontario SPCA, commonly known as the Ontario Humane

Society. My position is that of wildlife coordinator. I deal every day of my life with native wildlife in this province from a rehabilitation point of view.

I'm here to speak to committee today to let you know that the OSPCA strongly supports the city of Scarborough's application and this private member's bill concerning the use of leghold traps. A lot of what I wanted to say has already been said, so I'm just going to be very brief.

Leghold traps inflict pain and suffering. Don't let anybody else tell you any differently. I know from personal experience over the years, having removed both wild animals and domestic animals from leghold traps, and have seen first hand the injuries they have inflicted. To my right we have inspector Deborah Hunt, who has been working as an inspector with our organization for several years. She is going to speak to you on some of the charges she has laid against various individuals within the confines of Scarborough, North York and Toronto in general concerning leghold traps and body-gripping traps. She too will be able to address the pain and suffering aspect of leghold traps. By the way, "restraining device" is just a nice name for a leghold trap. Sometimes, if you give something a different name, it somehow deflects what this particular piece of apparatus actually does.

Leghold traps are unnecessary in many, many cases, in fact in all cases, as there are alternative trapping systems available, such as the live box trap. I would dispute the previous speaker's claim that the box trap can sometimes be more cruel or inflict more pain and suffering than the leghold; it cannot. I do not think so.

Our organization across the province: We are a provincial organization. We have a network of shelters and affiliated organizations from one end of the province to the other. All of us receive numerous, numerous calls concerning wild and domestic animals caught in leghold traps and other trapping systems. If you wish us to provide the statistics, I could do that later on. I didn't bring them with me.

Each time this occurs, there is public outrage which demands an end to the use of these traps. I'd just like to briefly say that if there were to be a referendum in this country tomorrow around either the trapping systems or the use of the leghold, there would be a resounding victory — in other words a "yes" victory — that the trap must go. You would probably get a 98% majority, not 51%. I don't think anybody in this room could dispute that, regardless of which side of the fence they're on.

Debbie has laid several charges over the years. She will address those.

I'd like to respond to some of the comments contained in the mission statement of the Ontario Fur Managers Federation. I won't go any further into the rabies issue. As somebody who works with wildlife on a daily basis, it is incumbent upon me to be as up-to-date about the rabies problem in this province as I can possibly be for my own safety and the safety of my co-workers. I did attach a one-page copy from the Rabies Reporter; it's the June 1997 issue. There has not been a reported case of a rabid fox in



southern Ontario since November 1996, and that had nothing to do with the trappers. All of that was due to the Ministry of Natural Resources vaccination program.

Despite the international agreement on trap standards that several people here have alluded to, leghold traps can never, ever be called humane; I don't care how many pads you put in them. In addition to that, under the Game and Fish Act an animal may legally be left in a leghold trap for 24 hours. Can you imagine the mess that leg will be in after 24 hours? It's also noteworthy that there's no "closed" season. That means that foxes may even be trapped during the breeding season.

In closing, we would like to indicate our very strong support. We urge you to pass this private bill.

**Ms Debbie Hunt:** Hello. My name is Debbie Hunt. I'm an inspector with the Ontario SPCA-Ontario Humane Society. My job is to investigate cruelty and neglect of animals and possibly charge those who wilfully cause pain and suffering, or injury, to an animal. Over the six years of doing this job, I have seen and dealt with often very unpleasant situations. I've had several cases involving animals caught in leghold traps and I'd like to comment on a few.

A few years ago in Scarborough I dealt with a case involving a nine-month-old kitten that had been caught in a leghold trap. The family had found their kitten, which by the way dragged itself back home near their deck. The kitten had blood all over its leg and was in a very bad way. The little girl was in tears when I went over to the house, she was so upset. The owners had promptly rushed their cat to a veterinarian, and I'd like to now read the veterinarian's report: "This note is to certify that I examined and treated above-described pet. In my opinion, injuries are consistent with a leghold trap and that such injuries would inflict considerable pain."

The cat luckily survived, and the man we believe set this leghold trap had placed it in his backyard. His yard had not been fenced, nor were his neighbours' yards. How lucky a child had not wandered into that man's backyard.

The cat I just spoke about had been lucky. However, in the rest of the cases I've dealt with, the animals were found suffering terribly and others had died a slow, agonizing death.

Another incident in Scarborough: A man had placed a conibear trap — a body-gripping device trap — in his backyard in a residential area in Scarborough. Children, approximately 10 of them, had lost their ball and they went looking for their ball. They jumped this man's fence and they discovered this cat in this trap, crushed and dead. The body was taken to a veterinarian and the post-mortem revealed that the cat had been well cared for, a family pet, and had five near-term fetuses inside her. The vet report indicated this animal had suffered terribly.

1130

Many of the children had been so upset — in fact, two of them had nightmares after the incident. According to their mothers, they kept asking: "Why do people have to be so mean? That poor kitty." The mothers stated to me, "What can I say to a six- and seven-year-old about some-

thing like this?" They had been so upset about their children having to go through something like this.

An individual was charged, pled guilty and, after it had been agreed that it would be too much for the children to testify, it was agreed that the accused would pay a \$500 donation.

Another case involving a leghold trap: An individual set a leghold trap, catching a raccoon. He knew it was in there and let it stay in there till it died. The individual was charged as well. He pled guilty for causing unnecessary pain and suffering and was ordered to pay a \$300 fine, resulting in a conditional discharge. I'd like to show you the pictures of that raccoon, its foot mangled in the trap, its bones sticking out of its leg. I can't imagine the pain and suffering that animal went through.

A case I had a year ago was one of my most upsetting ones. I'll read my statement briefly. This is what I prepared for my crown brief, which would have been submitted to the crown for the case I had charged the individual on:

"Having received a complaint of a live raccoon in a leghold trap, I arrived at an address in North York. I proceeded to the backyard of this address and to my right I saw a raccoon in a leghold trap. The animal was still alive. As I approached the animal closer, I saw its right leg was caught in the trap. The leg was horribly twisted and its bones protruding. I also saw the raccoon had chewed its toes off and it looked exhausted and in a great deal of pain. I called for backup and another inspector came in and assisted me. We restrained the raccoon with a catch pole but could not open the jaws of that leghold trap. I pulled the stake trap out of the ground and removed the raccoon with the leghold still attached to its leg. The raccoon was making several unpleasant sounds which were very upsetting.

"We transported it to an animal clinic. The raccoon was taken to the examining table and restrained again. At that time we attempted to free its leg. It took two men to push down the springs of that leghold trap so I could open the jaws. At that time blood started to spurt out of the animal's leg. We had to put the animal down. The vet's report states that the animal had suffered a great deal. It had fractured both tibias and the bone was totally exposed. The animal had chewed off its own toes in an effort to free itself."

I'd like to show you the pictures of that raccoon and that leghold trap. I'll never forget that helpless animal. I couldn't budge the jaws of that trap. The animal was screaming in pain. I wondered how and why we allow people to use these barbaric traps, licensed or not. The accused pled guilty and was ordered to pay a \$1,000 donation, resulting in a conditional discharge.

I'd like to show you, finally, a picture of a fox that had been caught in a leghold trap. Please look at the injuries to its legs.

In closing, I urge you to pass this bill prohibiting the use of leghold traps in Scarborough. Having a piece of paper saying you're licensed to use this trap does not take away the pain and suffering these animals experience and



the agonizing death they go through. I thank you for your time.

**The Vice-Chair:** Thank you, Ms Hunt, for your presentation.

The next presenter is Ms Nathalie Karvonen.

**Ms Nathalie Karvonen:** Good morning, everyone. My name is Nathalie Karvonen. I'm the executive director of the Toronto Wildlife Centre. I'm also a biologist. The Toronto Wildlife Centre does primarily wildlife rehabilitation, as well as public education surrounding wildlife issues. We deal with about 30,000 phone calls a year from members of the public regarding issues related to urban wildlife. We work with veterinarians, we work with the animal control in the municipalities, we work with the Metro Toronto Zoo, the Ministry of Natural Resources, as well as the Ontario Provincial Police.

I wanted to address several different points. I certainly am very concerned as well about children encountering these traps, but because I don't work with children, I can't comment on those situations. But we do work with wildlife 365 days a year, and one of the things that is very important to remember with these leghold traps is that there are a lot of non-target animals caught in these traps. Certainly it is very upsetting when the traps catch the animal they were originally intended for, but we have to remember that a lot of other animals, such as birds like the blue jay that Ainslie showed you a picture of earlier, get caught in these traps. At our organization, we actually receive a lot of owls which are caught in leghold traps. I'm sure Christine has the same situation as well. Also, we talked to the owl foundation in St Catharines. They also get a lot of owls which are caught in leghold traps. I'm sure everyone would agree that this is probably a situation where the person was not trying to catch a nuisance owl in their area.

Another very important point to address which has been mentioned a couple of times is the issue of nuisance wildlife situations. We spend a lot of time talking to members of the public about nuisance wildlife situations. Any form of trapping is not generally a solution for these situations. You need to look at the underlying causes for the situation which is happening. We usually spend about 20 minutes to half an hour talking with an individual about whatever the situation is but, for example, if it was simply a fox in an area, especially an area which has good habitat for foxes, there will always be foxes in that habitat.

We need to talk to people about what may be attracting them to their specific property, what types of things they can do on their property to encourage the foxes to stay away if they are very concerned about them being in the area, and just general education about foxes, what their diet is normally like. There's a very low incidence of foxes attacking people or pets. They're very small animals. If you've ever seen a fox up close, it's a skinny little animal with a lot of fur.

Generally, people are afraid of rabies, which has been mentioned before. Like Christine, we also have to keep very current on rabies information in Ontario. Our Ministry of Natural Resources is doing an excellent job dealing

with rabies in Ontario. This is something we talk to the public about a lot, because there are lots of myths out there surrounding rabies.

It's really important to remember that there hasn't been a documented case of a person contracting rabies in Ontario for over 60 years, and that was when a child was bitten by her kitten. So this isn't a rampant disease. It certainly is a disease we have to be concerned about, but we need to put it in perspective. I don't think we would advocate putting leghold traps out to catch kittens because the last documented case of rabies in people was caused by a kitten.

Another important issue I wanted to address is public tolerance of leghold trapping with respect to wildlife. A couple of residents have come up and illustrated that point really well. We deal with residents all the time who are calling about wildlife. An example of foxes in Scarborough, because we seem to be talking about foxes primarily today, is a fox on the Scarborough U of T campus that many students on the campus know, and it tends to hang out most commonly near the nursery school on campus. The teacher in the nursery school is actually doing a wonderful job. She has taught the children in the nursery school all about red foxes, she's taught them about their habitat and behaviour. The children in the school know this fox by sight, but they also know to respect it. It's a wild animal; they shouldn't go near it, just as they shouldn't go near a dog or a cat or any other animal they don't know.

Several months ago, this fox was injured and was brought into Toronto Wildlife Centre to be treated. The children were so concerned that they wrote to us constantly; they called us almost every day to check on the fox. They had a little fund-raising campaign and they raised \$50, which they donated towards the care of the fox. The fox was released back on the campus, because that was his home habitat, and they are now sending us follow-up pictures of the fox. We have a lot of pictures of this fox. They continue to be very concerned about the fox's welfare.

We need to keep in mind that there are a lot of people who love wild animals in Scarborough. I was actually raised in Scarborough. I lived there for 23 years on the edge of the Rouge Valley, which I might argue is just as good a place as the Bluffs, which I'm very familiar with as well. I love the Bluffs too; my aunt lives there.

I would strongly urge you to pass this bill. I think there are a lot of really good alternatives to dealing with wildlife problems in urban habitats. A lot of this has touched on the rabies issue, that this isn't even advocated by the Ministry of Natural Resources as any kind of rabies control method.

**The Vice-Chair:** Thank you very much for your presentation, Ms Karvonen. We're not going to discuss the value of living on the Bluffs or somewhere else this morning.

**Mr Shea:** Actually, we are going to.

**The Vice-Chair:** Okay, later on. There will be time allocation.



The next presenter is Mr Robert Scott.

**Mr Robert Scott:** Thank you very much for allowing me to speak on this very important issue. I speak on behalf of my wife and daughters and many other people who live in the Scarborough Bluffs area.

We were quite shocked when we found out that these leghold traps are being used. We couldn't believe it. The city of Scarborough is 15 years old. This is the wrong place and the wrong time to be using leghold traps. Leghold traps are a serious danger to children, pets and anyone else who happens to be stepping in the wrong place at the wrong time.

We don't have to use leghold traps. They're cruel and horribly restrictive devices for any kind of research or rabies prevention. There are other ways of doing research and preventing rabies, such as live trapping and vaccination programs.

In conclusion, we support this bill. We hope the city of Scarborough and the whole Metropolitan Toronto area would be permitted to ban the use of leghold traps.

1140

**The Vice-Chair:** Mr Scott, thank you very much for your brief presentation. Do we have any other interested party wishing to address the committee? If not, I'll go to the parliamentary assistant, Mr Hardeman, for his comments.

**Mr Hardeman:** I too will be very brief. Obviously, the legislation falls in the purview of the Ministry of Natural Resources and I'm informed by the ministry that it is neutral on the issue. They would not oppose the passing of the bill, so it is up to the committee to make the decision as it sees fit.

**The Vice-Chair:** For the committee members, we'll start with questions. Mr Shea has already indicated that he had a question.

**Mr Shea:** I am strongly supportive of Pr78 and I thank Mr Newman for bringing it to the committee for processing. I do have some questions I'd like to ask.

Time is brief, so I'll try to focus on a couple of them. Maybe I could ask Liz White and Ms Stein if they could just come back to the microphone for a moment. Mr Noseworthy might be ready to come up in a moment. I want to ask him a couple of questions as well.

**The Vice-Chair:** Why not come up immediately, so you're readily available, Mr Noseworthy.

**Mr Shea:** I just may want to ask questions as we go along. Then I have a question of the parliamentary assistant, because I know he wants to deal with a couple of issues here as well.

The question I want you to respond to, Ms White, is — a couple of points. First of all, we've talked about leg traps today. This involves you as well, Ms Stein. The resolution that went before Scarborough city council does not refer to leg traps specifically; it speaks about body-gripping traps, including leghold traps. That's the way it was phrased.

The legislation that's come before this committee doesn't read that way. I'm picking up on the point I think Ms White was raising, and I'd like some explanation on

that. I'd like to know, did the city of Scarborough see the wording of the legislation that is before us and agree to it, and if so, why do we find ourselves with this conundrum where we have a municipal resolution that is passed which is broader than the one that's before me today? Can you explain that? What's happening?

**Ms Liz White:** The process city council follows is that staff are directed to seek private legislation. The actual wording of the legislation does not go back to council.

**Mr Shea:** I understand that, nor should it. But were you consulted as the wording went through? You can understand my problem as you read the legislation. The legislation reads, "permit its council to pass bylaws prohibiting setting or using leghold traps." But the resolution that went through city council was, "to prohibit the using, setting or maintaining of body-gripping traps, including leghold traps." I'm picking up on this because it's a point that's raised by Ms White. I'd like some rejoinder for that.

**Ms Liz White:** I think what may be at the nut of it is that people don't always understand the difference between a leghold trap — a body-gripping trap is just a general description of a type of trapping method, as opposed to the specific type of trap within that method you're using. I think that may be the conundrum.

We looked at the city of Ottawa's legislation. That's why we talked about including conibear traps and neck snares as a possibility, because they are equally dangerous to children and pets, as was certainly fairly clearly demonstrated by the OSPCA inspector, as being more inclusive.

My concern with the piece of legislation from the city of Ottawa is it provides a massive exemption through the Ministry of Natural Resources for the use of traps and I don't think that's appropriate. We are trying to deal with a prohibition in a particular geographic urban environment, period. We are not talking about trapping all over Ontario.

So, Mr. Shea, there might have been a mix-up with the terminology because I think a lot of people are not clear as to what that means.

**Mr Shea:** Would the terminology be more appropriate for this legislation as contained in the city of Scarborough's resolution? Let me just make sure you are very clear what I am asking so there is no misunderstanding.

**Ms Liz White:** Yes.

**Mr Shea:** The legislation that is before me says "setting or using leghold traps."

**Ms Liz White:** Right.

**Mr Shea:** Would it be more appropriate to change that to "body-gripping traps, including leghold traps"?

**Ms Liz White:** It depends on how you look at what a body-gripping trap is, whether you consider it a trap that grips the body to hold the animal or grips the body to kill the animal, because we are dealing with two separate types of trapping systems.

**Mr Shea:** You understand my conundrum.

**Ms Liz White:** I understand your conundrum.

**Mr Shea:** My difficulty is that I have before me a piece of legislation written in a way that does not reflect —



**Ms Liz White:** I would recommend to the committee, I would suppose, that to simplify the situation for the committee today it should pass Pr78, possibly as is, and look at the possibility of introducing another private member's bill that deals with the other aspects of that piece of legislation.

**Mr Shea:** Then let me ask for the record, Ms Stein, is what is before us, in your opinion, in keeping with the intent and spirit of the council of the current city of Scarborough or not?

**Ms Stein:** Yes, I certainly believe it's in keeping with the intent and spirit of the council of Scarborough. What has happened here is in the course of drafting the legislation and going through various drafts, what we decided on was to use the definition of leghold traps which is consistent with that in the Game and Fish Act. It may be that body-gripping traps are something that could be considered at a later time. Certainly we wouldn't have any trouble including them in this legislation. I think that would also still be consistent with the city's resolution.

**Mr Shea:** Then on behalf of your municipality you register no objection with the wording of Pr78 as it is before the committee today.

**Ms Stein:** No, I don't.

**Mr Shea:** You were at some pains to discuss this as a public safety issue as well. Did your medical officer of health give any consideration to that argument and suggest that there may be within his or her purview recourse to legislation to prohibit?

**Ms Stein:** I have no comments from the medical officer of health.

**Mr Shea:** Well, you are a solicitor for the municipality. What would have been your opinion had the MOH asked you? Would that be within his or her mandate to declare these traps a public health hazard?

**Ms Stein:** It may be. Again, I really can't speak for the medical officer of health.

**Mr Shea:** Ms White, just a final question for you in terms of the bylaws to make sure I am very clear. The city of Toronto does have this exclusion.

**Ms Liz White:** That is correct.

**Mr Shea:** Niagara Falls has the exclusion?

**Ms Liz White:** That's correct.

**Mr Shea:** And Ottawa has an exclusion?

**Ms Liz White:** Yes.

**Mr Shea:** Any other municipalities, to your knowledge?

**Ms Liz White:** Not to my knowledge. I went through a fair number of bylaws in the last few days and I think those are the three.

**Mr Shea:** And Ottawa is more extensive than the other two?

**Ms Liz White:** Ottawa is more extensive in its definition of what is prohibited but the problem is that there is a major loophole in the bylaw through which a truck can drive with regard to exemptions from the legislation. I have very great concern about that loophole because it allows these traps to be set on the basis of a recommendation by the Ministry of Natural Resources. The trapper

that we are talking about today is licensed by the Minister of Natural Resources and thereby the loophole exists.

**1150**

**Mr Shea:** Perhaps I could just ask Mr Noseworthy a question. Just as he's coming up, Liz, I'll ask you one more question. Mr Noseworthy, because I'd like him to make a response to this, has indicated that there are different kinds of traps and that in fact the Game and Fish Act and regulations restrict the type of traps that may be used and the species for which they may be used. To your knowledge, are the animals sophisticated enough to know which trap they should go to? I don't mean that unkindly.

**Ms Liz White:** No, I understand that. I think the pictures that were shown, taken just recently in North York, are quite indicative that in fact they are not selective. Although Mr Noseworthy will tell you that it's in the setting of the trap and the trapping systems that tend to preclude types of animals from the traps, it isn't 100%. Therefore we have animals like blue jays getting into the traps, animals like people's cats. If you talk to anybody who has dealt with this particular trapper in any urban environment in which he traps, they will tell you that that trapper catches other than what he has set the traps for by virtue of the density of cat and dog populations in the neighbourhood, and other species.

We're talking about a trapper who is on a tiny property. We're not talking about two acres or five acres or 10 acres; we're talking about a typical urban lot. That's what we're talking about. To think that you can set this device in that lot and not impact on people's kids and on people's pets and other people who are wandering through the ravine is not rational.

**Mr Shea:** I appreciate that. I don't mean to cut you off but I know there's no time and I'd like to go to Mr Noseworthy for a moment for a response to that.

In terms of the urban trapping, on what setting are these traps placed? Are they placed on private property, with or without permission of owners, placed in public lands, with or without the permission of the municipality? Can you explain that for me, please?

**Mr Noseworthy:** Certainly. Generally speaking, in urban trapping situations the traps will be placed on private land. That is the nature of the urban environment. It may be the trapper's own property or it may be someone else's property with the permission and at the request of the landowner. This is commonly done throughout Ontario where, for instance, golf courses, other organizations, other clubs, this sort of thing, have property which they may wish to protect perhaps from beaver. Some people may wish to have their pets protected from animals such as coyotes, or livestock perhaps on the fringes of urban areas.

**Mr Shea:** It's done by permission of the owner, is it?

**Mr Noseworthy:** A trapper cannot legally set his traps on private property without the permission of the owner. In terms of licensing trappers in the province of Ontario to trap on private land, the trapper must have written permissions before he can even qualify to get a licence in those situations.



**Mr Shea:** That was a very straightforward, honest and carefully worded response and I appreciate that.

The final question I want to ask you both: Some issue has been raised about the success of oral vaccination. Will you elaborate on that? Is it a successful program? Let's say, in an urban area like Metropolitan Toronto, how is it done and what measurement do you use to show it's effective?

**Ms Liz White:** The process for vaccinating foxes is quite different from that for raccoons. They're harder to trap, as we know. They're harder to catch in box traps. Generally speaking, what the ministry has developed is a little cube with the vaccine in it which they drop around where they know generally the foxes are. That's indeed what's happened in all of Metropolitan Toronto and beyond Metropolitan Toronto. In fact, I think the Ministry of Natural Resources would itself say that program has been highly effective. Southern Ontario used to be known as the rabies capital of the world, and in many situations for a number of species that they have been working on, that is beginning to change. The fact that Metro has not had a reported case and complaint for a number of years now is indicative of how effective that program is. I think the fact that the leader of the program, Dr Rick Rosatte, who is actually responsible for implementing the program on the ground, says exactly the same thing is really indicative of where the Ministry of Natural Resources is on the rabies issue.

**Mr Shea:** Chairman, that completes my questions of these deputants. I would like to ask the parliamentary assistant one quick question, and that is, with the issue of amalgamation, the city of Toronto currently has this legislation in place. Will you indicate to me, if we were not to pass this legislation today, what would be the relationship of that piece of legislation to, let's say, Scarborough? Would we still find a portion of the new city of Toronto with some controls governed by its local neighbourhood council and another part of the same city not with those controls? Is that what I would see?

**Mr Hardeman:** My understanding would be that the issue of granting authority to pass the bylaws would not exist, so the part of the new city that would be formerly Scarborough would not have the ability, through the legislation that Toronto has presently, to pass a bylaw for that area. But I think we also need to recognize that in the new city of Toronto, in its restructuring process, the existing bylaws stay in existence until they're changed. So the bylaw that presently exists in Toronto would stay in place.

**Mr Shea:** For that reason, Chairman, I certainly hope this committee will support the passage of Bill Pr78 and do so today, if we can.

Very quickly, I live on the finest ravine land in Metropolitan Toronto.

**The Vice-Chair:** Thank you, Mr Shea. Make it quick.

**Mr Shea:** I wanted to declare that interest. I also with some embarrassment had to discover, as she was chatting, that the Toronto Wildlife Centre is the recipient of personal contributions I have made. I want to put that on the

record. I don't do that with any degree of embarrassment in terms of conflict, but let it be on the record that I'm saying that straight out.

I strongly support Bill Pr78, where it's at. I think we can do some refinement of it later. I am concerned about the argument of trapping within the urban environment. I do believe it is —

**The Vice-Chair:** Mr Shea, with all due respect, I think I have to cut you off. I've given you enough time. I'll now go on to Mr Brown.

**Mr Michael A. Brown (Algoma-Manitoulin):** I have some questions and I'm not sure really who I should direct them to.

**The Vice-Chair:** You can ask the presenters to come forward.

**Mr Michael Brown:** Basically, I'm surprised that the Ministry of Natural Resources doesn't have somebody here who can help us directly with the questions I have. The Ministry of Natural Resources does license trappers. I do not understand what would happen in the case of a complaint against a licensed trapper in the community. Would the animal control in the municipality contact a conservation officer of the ministry or contact the ministry somehow to indicate there was a problem with a licensed trapper? How does that work?

**Mr Noseworthy:** Are you asking the process by —

**Mr Michael Brown:** Yes, I'm asking what happens. How does it work? If there's a problem with a licensed trapper in an urban environment, what happens? Seeing as the ministry is the licensing agent, how does that work?

**Mr Noseworthy:** Would there be a specific example of the problem? Are you suggesting the type of problem whereby the trapper would be breaking the requirements of his licence and in effect breaking the law?

**Mr Michael Brown:** Yes.

**Mr Noseworthy:** Then I would expect that he would be dealt with the same as any other person who was in violation of a permit that they had to trap.

**Mr Michael Brown:** I'm interested in what the practice in the municipality has been, in this particular municipality, in Scarborough. Have animal control or the humane society contacted the ministry directly and said, "Look, this is a problem"?

**Ms Liz White:** I think the difficulty is that people don't know who to call. I think it's a real problem. When we were dealing with this situation, the same trapper in North York, the same problem, it was very difficult to find out who one actually talks to. The problem is that we have a conflict of values. That's what we have. I don't think the trapper is doing anything contrary to his licence, what is legally allowed for him to do being a licensed trapper. The problem is, it's being done in view of people who see it and find it offensive, and they want to complain. I think the problem is that we have a clash of values, and the ministry really licenses on the basis of the practice, not on the values. What we see with Bill Pr78 is Scarborough saying, "This is not a value we want in our community." It's not that the person is necessarily doing anything ille-



gal under the Game and Fish Act; it's a clash of values, and that's what Bill Pr78 is about. That's what I think.

1200

**Mr Noseworthy:** If I may, the ministry and the trapper often find themselves in a no-win situation through no fault of their own. If a private landowner has a problem with an animal and they don't know where to turn, they typically turn to the Ministry of Natural Resources. The ministry will oftentimes advise them of a licensed trapper in the area who can take care of their problem for them. The ministry has done its job and the trapper attempts to do his by dealing with the problem wildlife. The ministry and the trapper satisfy the concerns of the one landowner. Then perhaps a neighbour phones the ministry and complains because of the trapping activity that is taking place. Both the ministry and the trapper in those sorts of situations are in no-win situations.

**Mr Gardiner:** If I may say, the person who gets called could be the humane society, it could be the animal control person of a municipality, it could be the wildlife control centre, it could be the provincial conservation officer, it might be the trapper. Often it's just a nuisance animal control company that's in private business to do that. We really respect the work of trappers in Ontario, their progressive, humane improvements of many regulations and their ways of being trained to do that job properly.

I'd like to promote the fact that trappers are people who know how to do it much better than homeowners. But this concept in Scarborough of having legislation that keeps the dangerous traps away and uses the traps that cause less injury, pain and suffering is very important. In Ontario it's quite legal to use a leghold trap on land in the city for wolf — you're not going to see wolf in Scarborough — fox or coyote perhaps. It could be bobcat and lynx, which you'll seldom see in this area, but you do sometimes.

You have to remember that leghold traps can be used under the water, in streams where kids are wading, for muskrat, beaver, there's a few otter around, and for mink. They can be a land-set right beside the side of the stream as long as the animal is submerged. This is truly a legislative problem in urban areas. That's why I hope both that the province will look at urban trapping situations in greater detail than they have before on a municipal-wide basis, and in municipalities watch out for what have been called body-gripping traps. Maybe a better, more precise term would be killing traps, because they tend to be traps that try to kill a small animal. It could be a dog, a cat or whatever. That's why I hope the legislation will get that amendment to be more specific.

The Ottawa legislation said it's under the direct supervision of the Ministry of Natural Resources. I hope that was intended to mean it's not just a trapper out there doing it but under the ministry's direct supervision, because they do trap as well.

**Mr Michael Brown:** You've just raised another issue that I hadn't considered, and that is the nuisance animal control private companies that I would suspect are not trappers licensed by the Ministry of Natural Resources.

**Mr Gardiner:** Some may be and some may not be.

**Ms Liz White:** Actually, I can answer that. That is an issue that will be dealt with under Bill 139, which is the amendments to the old Game and Fish Act. Bill 139 will look at licensing wildlife removal companies. In fact you're right; they are not licensed. But to my knowledge, and I deal extensively in urban environments, I don't know a wildlife removal company in the city of Toronto, Metropolitan Toronto, Ottawa or a number of other large southern urban environments that uses leghold traps. They generally use box traps of a variety of sorts; maybe not well, but they use them. They're not using leghold traps, to my knowledge.

**The Vice-Chair:** I will have to proceed. Are you done, Mr Brown? I have three more members who wish to ask questions.

**Mr Michael Brown:** I'm just not certain that I'm becoming much more clear about exactly how to proceed. One of my problems, and Mr Shea raised this, is the difficulty of the amalgamation and what this means after the city of Scarborough is swallowed by the megacity.

**Mrs Helen Johns (Huron):** Please.

**The Vice-Chair:** It's a figure of speech.

**Mr Michael Brown:** Well, when that happens, the bylaws need to be sorted out. Perhaps, Mr Newman — I'm trying to be helpful — this would be better as an amendment to the City of Toronto Act; I can't remember the bill number. That would solve the problem not just for the next three months, because that's what we're talking about, but for the long term, and it would be clear. I mention it because we also have a new replacement for the Game and Fish Act out there. I'm just trying to figure out legislatively how we can accomplish what the people in this room are trying to do in a way that we're not all back here in January trying to figure it out.

**The Vice-Chair:** Mr Brown, with all due respect, we're here to consider one bill that's in front of us this morning, and we have to maintain the discussion —

**Mr Michael Brown:** I understand that, Mr Chair, but I also understand there's a context.

**The Vice-Chair:** But I don't think we want to get into a discussion with regard to amalgamation.

Ms Johns, you had a question? I'll go on to you, briefly.

**Mrs Johns:** Mr Newman has lobbied us extensively. As a member from rural Ontario, I would like to comment that I'm going to support this bill because it relates strictly to Scarborough. I think that's an important aspect about how I am talking about this. Urban trapping is a very different thing. The last speaker spoke about making it province-wide or municipality by municipality; I would never support that. I'm supporting this bill today because it's strictly relating to one area, talking about specific trapping methods, and in effect that is an urban riding.

**Ms Shelley Martel (Sudbury East):** Two quick questions and then some comments. First, Mr Noseworthy, in your presentation you talked about Canada as attaching a declaration to the international humane trapping standards agreement, which says in part, "Based on the results



of testing already available, the use of conventional steel-jawed leghold restraining traps shall be prohibited...by...the end of the full field-testing season commencing October 1999...." Just so I am clear, is this what we're talking about with respect to the city of Scarborough, what they're trying to deal with, or are you talking about a completely different trap in this context?

**Mr Noseworthy:** The city of Scarborough would be more inclusive in the types of devices it would wish to ban. That's why I said in my presentation that all these devices are not the same in their operation. There is a whole range of devices — hundreds, potentially thousands of different devices — in use worldwide commonly referred to as leghold traps or restraining traps. Some have steel jaws, some have padded jaws, some are in fact snares. One developed in North America is called an egg trap. It's very specific, for use with raccoon only. That is a large portion of the concern of the Ontario Fur Managers Federation, that this particular legislation is far too inclusive of far too many devices.

**Ms Martel:** Your argument is that we're only looking at dealing with banning one as per this declaration.

**Mr Noseworthy:** I pointed out that Canada has agreed to this ban on the use of standard steel-jawed leghold restraining traps. I would suggest that the concern that has arisen in the city of Scarborough has come from the use of standard steel-jawed leghold restraining traps, but that the bill is far more inclusive in that it would preclude the use of devices some of which cannot be shown to have ever caused any problems within Scarborough.

1210

**Ms Martel:** Second, and this is for the PA, in Mr Noseworthy's brief he said the act "would have the effect of undermining the scientific management of wild animal populations and the scientific control of problem animal populations." Can you tell me what the MNR's view about this is? Maybe I can say that I believe I heard Ms White earlier say that MNR staff, particularly Mr Rosatte —

**Ms Liz White:** Dr Richard Rosatte, the biologist in the rabies unit.

**Ms Martel:** Was I clear in hearing you say that he disputed that this would undermine in any way MNR's ability to continue scientific testing management of the population?

**Ms Liz White:** The implementation of the rabies program.

**Ms Martel:** It was strictly with respect to the rabies program.

**Ms Liz White:** Yes, but I would point out that the Ministry of Natural Resources also brought forward the Ontario Wildlife Working Group document which looked at human-animal conflict situations. A recommendation out of that document was that there be a move to ecological management of human-animal conflicts and a push to educate people and to minimize the need to remove the animals, in whatever manner, from the particular situation; that is, to essentially leave them where they are and educate people as to the type of animals they are living with.

**Mr Hardeman:** As I read it from the letter, in the opinion of the writer of the letter a certain amount of this type of trapping is necessary for the scientific control and management of wildlife. After further consideration and looking at the issue in the city of Toronto and other areas, where the ability to prohibit this type of trapping already exists, they do not deem it appropriate to pick this one out and say it should be allowed in Scarborough but should not be allowed in the city of Toronto. The extension of this prohibition was not what they were recommending, but it was not, in their opinion, appropriate to stop that extension at the edge of Toronto and not have it in Scarborough.

**Ms Martel:** I appreciate that, but it was not actually my question. My question was that there has been a specific comment raised that the effect of allowing this bill to pass will be to undermine MNR's efforts to continue scientific testing of wildlife populations etc. Does the ministry have a view on that point one way or the other?

**Mr Hardeman:** I can't speak to whether they have a further view on that. We would be quite prepared to have them comment directly on that issue.

**Ms Martel:** Maybe I can make a couple of comments. The issue for me is not whether trapping is well regulated in the province, either under the current act or under the proposed legislation, and it is also not an issue for me whether Canada should have a role or to question Canada's role in developing international standards with respect to ensuring that traps are humane and efficient.

The issue I see before me is, does the city of Scarborough have the right to determine what is appropriate in dealing with human-wildlife conflict management within the city's borders? That is what I am going to address, because that is the issue that I think is before this committee. If that's the issue, I believe council and the residents do have the right to determine what they think is appropriate with respect to how they manage human-animal conflict within the city boundaries and that allowing the council to prohibit the setting and the using of leghold traps is well within the right of this committee. This is what we are being asked to do, and I support that.

A couple of arguments: It has been made clear to the committee that trapping does not control rabies. I won't go into the MNR specialist's review of that issue. Clearly, the MNR vaccination program is having much more positive effect in dealing with rabies, and the removal of animals from the population by trapping is not the direction they are heading. We also heard evidence of that at MNR estimates last week.

Third, the city of Scarborough, it has been made clear to us, has seen a reduction, not an increase, in costs with respect to dealing with human-animal conflict management, primarily around their decision in 1994 to put a strategy in place that deals with public education.

I am also very cognizant of the fact that the city has already made it clear to us that they only rarely use traps now, and if they were to use traps, it would not be a leghold trap, it would be a live trap. That is already the policy and practice that has been in place.

I strongly feel that the city does have a responsibility to deal with the security of domestic animals and of children and they have a legitimate right to come to this committee and ask us to help them in undertaking that effort.

We have seen that the city of Toronto already has legislation in place, and has for 19 years. As they said to us in the letter that was in the brief, there has been no negative effect on their ability to control problem animal populations in their 19-year experience. I think that gives us some evidence of what we can expect in Scarborough.

Seventh, they have also promoted public education and have also seen a substantial drop in intervention by the city or city officials in human-animal conflicts, so again I don't think there has been any undermining whatsoever of the city to control problem animal populations.

I'm sorry we don't have a better response from MNR with respect to whether they can continue to deal with scientific management of wild animal populations, but I haven't seen any evidence to suggest otherwise, even though St Catharines, Ottawa and Toronto have had this in place. It's certainly not an issue that was ever raised at MNR estimates as a priority for the ministry either, as a concern of theirs, so I'm going to have to assume that the MNR can still do that, and quite successfully and effectively, even if this bill is passed.

I also asked specifically about the declaration, because I feel, although I appreciate what you've said, Mr Noseworthy, that the legislation is more restrictive. It seems to me that Canada, by signing the declaration, is moving part of the way there to dealing with this issue. I have to assume that there is some support by Canadian officials at an international level to deal with what kind of traps we're going or not going to use. I appreciate your concern that this is more restrictive, but I think we are moving partway there just by Canada signing that declaration, so I'm taking that into account here.

Finally, I do not think this represents the thin edge of the wedge. That's the final argument I would like to make.

We have three other cities that have had this legislation, Toronto for some long time now. We have over 700 municipalities, although that will be less under this government by the time they're finished. I don't see any evidence of a major move being made by municipality after municipality to do this. We have a specific concern that was raised in Scarborough and a specific way that council wants to deal with it. I will be supporting the passage of the legislation.

**The Vice-Chair:** Mr Hardeman, briefly.

**Mr Hardeman:** Very briefly; it's a question. We've heard considerable debate about the situation in Ottawa and the type of law they have. For clarification, do they have different legislation that allows them to pass a bylaw or are we referring to the bylaw they passed?

**Mr Gardiner:** They do have separate legislation. It's the City of Ottawa Act. I don't have an copy of that handy, but in the wording of their bylaw they refer to section 2 of the City of Ottawa Act, 1979.

**The Vice-Chair:** Are the members ready to vote? Can we collapse sections 1 to 4 under one vote?

**Mr Shea:** I have one comment.

**The Vice-Chair:** We'll take them after.

Does that carry, to collapse sections 1 to 4? Agreed.

Shall sections 1 to 4 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Before we adjourn, I would like to thank all the presenters, the sponsors and the applicants, certainly the committee members, and last but not least, all the Legislative Assembly staff. Mr Newman, I would like you to convey to your constituents that I was quite fair in the time allocation.

This meeting is now adjourned.

*The committee adjourned at 1219.*









## CONTENTS

Wednesday 3 September 1997

<b>Japanese Canadian Cultural Centre Act, 1997, Bill Pr84, <i>Mr Turnbull</i> .....</b>	<b>T-239</b>
Mr David Turnbull	
Mr Roy Kusano	
<b>City of Scarborough Act, 1997, Bill Pr78, <i>Mr Newman</i> .....</b>	<b>T-241</b>
Mr Dan Newman	
Ms Jasmine Stein	
Mr Don Mitton	
Ms Ainslie Willock	
Ms Liz White	
Mr Robert Gardiner	
Ms Karin Eaton	
Mrs Ann White	
Mr Howard Noseworthy	
Ms Christine Mason	
Ms Debbie Hunt	
Ms Nathalie Karvonen	
Mr Robert Scott	

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Mr Michael A. Brown (Algoma-Manitoulin L)

Ms Shelley Martel (Sudbury East / -Est ND)

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T-23

T-23

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## Assemblée législative de l'Ontario

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# Official Report of Debates (Hansard)

Wednesday 17 September 1997

# Journal des débats (Hansard)

Mercredi 17 septembre 1997

Standing committee on  
regulations and private bills

Comité permanent des  
règlements et des projets  
de loi privés

Chair: Toby Barrett  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
REGULATIONS AND PRIVATE BILLSCOMITÉ PERMANENT DES RÈGLEMENTS  
ET DES PROJETS DE LOI PRIVÉS

Wednesday 17 September 1997

Mercredi 17 septembre 1997

*The committee met at 1013 in committee room 1.*

**The Vice-Chair (Mr Marcel Beaubien):** Good morning, everyone. I'd like to bring the meeting to order. The first order of business is that we have a get-well card for the Chairman, Mr Barrett, circulating around the room, so I would like everyone to sign it, please.

The other piece of business, which is not on the agenda today, is that Mr Ruprecht last week mentioned about the committee looking into why we do business the way we do it. I would like to inform you that we are in the process of looking into this matter and we shall report probably within the next two to three weeks, if that's satisfactory with you.

**Mr Tony Ruprecht (Parkdale):** Can I respond to that just for a minute?

**The Vice-Chair:** You certainly may.

**Mr Ruprecht:** I think that's wonderful news. I would expect, when the report comes down — can we call it a report, or is it simply going to be statement of intent?

**The Vice-Chair:** I don't know exactly. I don't think it'll be a report, because I'm not one — I've got the chairman of the red tape commission over here — for more documentation. But I'm sure there will be a discussion paper that the committee can discuss to see which way we should proceed and how we can tackle this nagging issue that the committee has faced over the past number of years.

**Mr Ruprecht:** I really appreciate that. I also know that the members of this committee who have spoken on this issue in the past, including Mr Shea — at least he has made some comments on this issue — will be very happy that finally something will get done. I'll pass on my congratulations to everyone who's interested in this.

**The Chair:** We have dedicated staff.

**Mr Ruprecht:** Great. They should be thanked too.

CITY OF HAMILTON ACT  
(LICENSING COMMITTEE), 1997

Consideration of Bill Pr65, An Act respecting the City of Hamilton.

**The Vice-Chair:** The first bill that we will be dealing with this morning is Bill Pr65. The sponsor of the bill is Ms Ross, so could Ms Ross, along with the applicants, step forward. Ms Ross, you can introduce the bill and also introduce the applicants, please.

**Mrs Lillian Ross (Hamilton West):** Thank you, Mr Chair. I'm very much in support of Bill Pr65, An Act respecting the City of Hamilton. It streamlines the licensing process for the city of Hamilton and provides more accountability through the committee structure.

With me today are Lorne Farr, the solicitor for the city of Hamilton, and Steve Dembe, manager of licensing. I'd like to turn it over to them to explain the bill.

**Mr Lorne Farr:** Mr Chairman and members of the committee, this is a bill to deal with the licensing committee of the city of Hamilton. This licensing committee was established by a 1978 special bill of the Legislature. At that time, it was set up so that the actual issuing of licences would have to go through the committee. Also, the committee was made up of three members, currently two members of the public and one member of the council. So it's a very special type of committee that's not made up of all members of council.

I understand that our council believes the use of citizens on the licensing committee has been quite effective and has certain advantages, and so the city of Hamilton would like to continue that but streamline our licensing committee legislation. The proposed bill would create up to a five-member committee with, again, at least one member of council on it.

The use of citizens on the committee causes a problem under the Municipal Act in that, under section 105 of the Municipal Act, committees of council can deal with certain hearing matters which this committee would be dealing with. Unfortunately, because there are members of the public on this committee, we wouldn't come within the legislative enactment of section 105. So the purpose of this bill is to deem the new licensing committee a section 105 committee. This would give certain procedural and administrative protections to those applying for a licence.

The other part of the bill is again, as I said, to allow the staff of the city of Hamilton, if you comply with the licensing bylaws, to issue the licences right away. Currently, if you comply with the licensing bylaws, we must still now send your application to the committee to be issued, and that takes some delay. So we're trying to streamline the issuing of the licences.

Mr Dembe is the manager of licensing. I don't know if you have any further comments on the issues.

**Mr Steve Dembe:** I don't think so. I think Mr Farr has put it correctly. This will certainly bring us into a more streamlined, more up-to-date and more efficient system.



Staff will be able to issue the licences which comply, as he has pointed out. Appeals for any licence that has been recommended for denial or refusal would, on appeal, go to this committee. There will be probably less work for this new committee of council, but of course the fairness will be there for applicants who feel they have been aggrieved to still appeal the decision of staff to the committee.

Refusals of licences will be based on criteria approved by city council. That's something we're developing now so that there will be clearer guidelines for staff to approve licences and to refuse to issue licences, with the final appeal going to the committee.

**The Vice-Chair:** Do we have any other interested party wishing to address the committee on this issue? If not, I would ask Mr Hardeman, the parliamentary assistant, for his comments.

**Mr Ernie Hardeman (Oxford):** First of all, I think the applicant would be aware there's been considerable discussion with the ministry about the need for this type of bill. I think the legal position from the ministry is that the provisions in Bill 26 could accommodate this request. Obviously, the legal staff at the city of Hamilton have a somewhat differing opinion and believe this does require a bill to deal with it.

Recognizing that the province has absolutely no concern with doing it, since we feel that it could be accommodated by Bill 26, we have no disagreement with the policy direction and we register no objection with this and recommend that the committee proceed with granting this bill to accommodate what the city of Hamilton requires.

1020

**The Vice-Chair:** At this point in time, I will entertain questions from the different parties. I will start with the official opposition.

**Mr Ruprecht:** Thank you. I pass my comments.

**The Vice-Chair:** Mr Martin?

**Mr Tony Martin (Sault Ste Marie):** I have no questions either. It seems that the city of Hamilton have made their case and it certainly makes sense to me that you be allowed to go ahead with this. There's nobody who has come before us to object and the ministry seems to be approving of it, so I will have no questions or comments or objection either.

**The Vice-Chair:** On the government side, Mr Sheehan.

**Mr Frank Sheehan (Lincoln):** Is this the only authority you have for this licensing committee?

**Mr Farr:** The 1978 act is the authority for the special licensing committee made up of members of council and members of the public. Probably many other municipalities just use members of council, totally members of council, to do a licensing committee. If that was the way the city of Hamilton was doing it, we would not need a special act, but because we're using members of the public on the committee, that's what requires a special act.

**Mr Sheehan:** The prior act gives you the permission or gives the committee the right to issue the tickets? It doesn't have to be covered off in here? Because it's not mentioned in here, the right to issue or decline to issue —

**Mr Farr:** The 1978 act was specifically that the licensing committee had the actual power to issue all of the licenses. The actual issuance of licences had to go to them.

**Mr Sheehan:** So all we're doing is just changing the composition of the committee?

**Mr Farr:** To that degree, and also deeming it to be a section 105 committee under the Municipal Act. What happened was, section 105 of the Municipal Act came in after the 1978 act, so in the 1978 act there's a lot of the same type of language dealing with procedural rights and appeal rights. There is some difficulty in the language they used; it's not as clear as the 105 language. So we believe there would be advantage to making it clear that it's a 105 committee.

**The Vice-Chair:** Any other questions? If not, Mr Hardeman has one more comment.

**Mr Hardeman:** Just one further comment, and it relates somewhat to Mr Sheehan's question. I would point out that the request to change the private bill that presently exists for Hamilton is not changing provincial legislation, so there is no precedent being set. It is just solving a problem that was created by the city of Hamilton's private legislation.

**The Vice-Chair:** Are the members ready to vote? First of all, can we collapse sections 1 to 6 under one vote? Agreed.

Shall sections 1 to 6 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

At this point in time, I would like to thank the sponsor and the applicants. Thank you for coming.

#### LANSING CO-OPERATIVE NURSERY SCHOOL ACT, 1997

Consideration of Bill Pr78, An Act respecting Lansing Co-operative Nursery School.

**The Vice-Chair:** The next order of business is Bill Pr88. The sponsor is Mr Turnbull. Could Mr Turnbull and the applicants come forward, please. Thank you. I'll let you introduce the applicant.

**Mr David Turnbull (York Mills):** Mr Chair, I'm sponsoring Bill Pr88, An Act respecting Lansing Co-operative Nursery School, on behalf of the constituents of the Attorney General. The applicants with me are Sandra Sasso, who is the president, and representing the applicant is Aldo Forgione, the solicitor. I'll turn it over to Mr Forgione to explain the bill.

**Mr Aldo Forgione:** Thank you very much. Best we explain the nature of the applicant. The applicant is a company that was incorporated in 1957 with letters of patent without share capital. It is a registered charity, a non-profit organization. It has been an institution in Willowdale, in the municipality of Metropolitan Toronto, for more than 40 years. There is more about the applicant that I would want my friend to talk about.



I also want to talk about the nature of the property. They moved into this new location in 1995. They — “they” being Lansing — had operated a nursery school out of an older, run-down building down the street. As part of a redevelopment initiated by Tridel and coordinated by the city of North York, there was a deal reached where this new building at 80 Church Avenue would be constructed by Tridel and provided to Lansing nursery school for its purposes. So there was a little bit of a land swap that occurred. Unfortunately, the tax bill was not swapped, and the new bill for the property is approximately \$10,000. The property can only be used by Lansing, and only for the purposes of a nursery school. If it ceased to be used by Lansing, the property would revert in ownership to the city of North York.

So there are several issues. The new legislation that was passed by Queen's Park earlier this year deals with current value assessment. The term, as it's been defined in new legislation, contemplates an open market for a property. When you're dealing with this right of reversion, it's debatable whether or not this property has any value, because it can only be occupied by Lansing and only used for nursery school purposes.

I'd like to pass it over to Sandra Sasso to speak about the nature of Lansing and its history so you can appreciate the unique nature of the organization.

**Ms Sandra Sasso:** Good morning. I want to mention that Lansing is a cooperative nursery school. The philosophy behind that is that parents volunteer their services to help the teachers during the course of the school year. There is very much volunteer service throughout the whole community. At the beginning, when Lansing was established, the community supported and volunteered through helping us with fund-raising and purchasing things like toys for the school and volunteering their services, as well as helping us build. We had an architect as well who came and volunteered his services to help construct the school.

We are the only cooperative school in Ontario that owns its own property. This is unique for the school because we do not receive any direct grants from the municipal, federal or provincial governments. So all the money that goes into the school for enrolment is used for the school solely.

I want to reiterate that at the school we need a lot of volunteer services from the community. Our community will be sorely lost if we indeed have to close the school down, because presently we only have 20 children enrolled, which means we cannot afford to have to pay these taxes that have been accumulated over the past few years. We were not expecting our taxes to surmount up to \$10,000. Our previous taxes were in the amount of around \$2,200, which means that we have had an increase of over 450% with these new taxes, and the school is just not readily able to pay these taxes. So I'm hoping that something can be done to help us in that respect.

**The Vice-Chair:** Thank you. Do we have any other interested parties wishing to address the committee? I don't see anyone, so Mr Hardeman, do you have any comments?

**Mr Hardeman:** There are a couple of quick points I would like to make. First of all, I think the committee should be aware, and I'm sure are aware, that this is a different type of application than we've seen in the past for this type of bill. In the past, the bills have related to community recreation and cultural services that municipalities were asked and were expected to provide and were being provided by others. For that reason, it was felt appropriate that they should have a tax exemption.

Approving this bill would in fact be setting a precedent, a first case where this function, such as a nursery school or day care centre, would be exempted from taxes. The minister doesn't believe that would be an appropriate step to take at this time.

First of all, leading to the requirement for the bill, as opposed to a grant: The municipalities presently have the ability to give a grant to replace the taxes. If the city wished to have this property tax-exempt, to accomplish the same thing does not require the bill. They could charge the taxes and then immediately give the taxes back to the applicant. What they don't have the power to do is to give back the education tax. Although they can give back the amount of the education tax if they so wish, they do not have the power or the ability to forgo the education taxes.

#### 1030

The Ministry of Education feels that it would be inappropriate to give the municipalities the ability to forgo those taxes, recognizing that the province has taken the approach that the funding of education will be controlled by the province. There will be a set mill rate on the municipalities, and beyond that the province would be funding it out of income taxes. So the ministry does not feel it appropriate that the local municipalities should be in the position to forgo education taxes.

One of the other points I would like to make is that the province's position — as I said, in the past they have not granted these types of bills, or none has been approved. In the policy direction that our province has taken in the last assessment bill, there is a section that allows the Minister of Finance by regulation to exempt certain taxations as they relate to commercial properties. Certain functions that occur in commercial properties, non-profit organizations and so forth, the minister can by regulation exempt from taxation.

But what's interesting in the bill is that one thing that is not included, that cannot be exempted from taxation by regulation, is excluding land use for the purpose of day care centres. I would point out that I think a nursery school and a day care centre would be a similar type use. Though they are somewhat different in function, I think from a land use policy they would be a similar type use. The government's position has been that we should not have those exempt from taxation. If they require that and they should have that relief, it should be given in a grant from the municipalities to overcome that position.

I think those are fairly well my points on the reason we think the committee should consider not supporting this bill. I do have a question. My information doesn't report whether the region, the upper tier in Metro, and the school



board actually sent in resolutions of support, or whether it was just that you asked for their support.

**Mr Forgione:** With respect to receiving support, we have received a resolution passed by the city of North York. We are in the process of obtaining a resolution from Metro. Councillor Norm Gardner's office has initiated a motion that apparently will be heard on September 24. It has been seconded by Councillor Caroline Di Giovanni.

With respect to the board of education, we have had a discussion with the board of education. Ms Judi Codd, who is part of the executive of the board, has provided her personal support, but we have not been able to obtain a motion or a letter of support from the board of education or the union, so we're endeavouring to do so.

**Mr Hardeman:** I just wanted to add to that. For the committee's information, there have been a number of requests of a similar nature that have either been denied or deferred because the required support was not present at the table when the discussions were taking place. I would point out that the taxes we're talking about, the majority of those taxes, at this point in time do not have the municipal support to require the forgiving of those taxes.

I would also point out that in this bill it is a request to allow and to forgive them back to 1995, as opposed to just future taxation. I hope the committee would take those points into consideration.

**The Vice-Chair:** Questions from the committee members? I'll start with Mr Martin this time.

**Mr Martin:** I'll be supporting this bill. I want to be on record as expressing tremendous support for anybody who in this very difficult time of transition is able to find a way to continue to provide day care services. Non-profits are a good example of how people can come together cooperatively to provide for each other what sometimes they can't provide individually. At a time when there is less and less money coming from government to support that kind of activity, where a community of people have been able to come together and provide a service to each other that becomes less a drain on the larger public purse, I think we should be willing to support that in whatever way we can.

I sense an urgency in this from you as you come before us or else you would probably have waited to have all those official documents in place. I don't see any letters of objection to this in front of us, so that certainly allays some of my anxiety and fears around it.

I'm supportive of what you're doing. I'm supportive particularly of the cooperative nature of what you're doing. If we as a governing body can lend you some relief, some extra ability to continue to do that, and indirectly in doing that lend some relief to the parents who belong to this cooperative and contribute to the educational process of the children who will come to your centre, then I would be more than happy to do this.

I have no difficulty setting a precedent of this sort, particularly in the environment that's out there today for a lot of these kinds of operations, day care centres, particularly non-profit, cooperative day care centres, as they struggle to find ways to provide the kind of service you do to fami-

lies who in some instances, I'm sure, wouldn't otherwise be able to afford them.

With those thoughts on record, I will be supporting this bill this morning.

**The Vice-Chair:** Thank you, Mr Martin. I'll proceed on the other side, the government side.

**Mr Derwyn Shea (High Park-Swansea):** I have a number of questions. Just a preliminary thought: I recognize the comments of my distinguished colleague from Sault Ste Marie. He makes in some ways a grand gesture, eliminating taxes that are owed to other levels of government. I'm not quite as quick to that, but I do understand the significance of the service that's provided.

The issue that I think is far more serious and important for us, as I'm sure the sponsor of this bill understands — I have consummate respect for Mr Turnbull who understands the nature of the tax base and how it's structured, so I approach this with a great deal of caution because I hold Mr Turnbull in very high regard. He understands this issue with all its intricacies. Nevertheless, I have some questions to ask and I think even my distinguished colleague Mr Turnbull would understand why I have to at least pursue some questions here that are serious that flow from my comments to my colleague from Sault Ste Marie.

We are involved with the unravelling of a tax base. I recognize that this is a most unusual request that's before us for a whole range of reasons. In all of this, as I try to find if there's any culpability in this, I find my attention turning to the city council of North York rather than anything else. That's where my real concern rests, and the parliamentary assistant quite rightly pointed his attention to things that could have been accommodated some time ago, just simple grants in lieu which would have resolved this matter. Many of us who have served on municipal council for years know exactly how that can be done. To kind of dodge the bullet is surprising.

May I just ask, the parliamentary assistant correctly pointed the committee's attention to the fact that your request also involves retroactivity. Would you please advise me, what is the total amount of annual taxes currently on the property?

**Mr Forgione:** The current amount of annual taxes is in the range of \$10,000.

**Mr Shea:** It is \$10,000.

**Mr Forgione:** It is \$9,600.

**Mr Shea:** Annually. This goes back to 1995, so we'd be talking of something in the range of about \$30,000 for forgiveness.

**Mr Forgione:** Approximately \$25,000 at this stage because we moved in in June 1995. Initially, we were seeking exemption under the Assessment Act. If I can speak about that matter, the background to our being here today was a variety of bureaucratic discussions.

#### 1040

Under the Assessment Act, there are hundreds of thousands of organizations in Ontario that get exemptions from taxes, organizations such as Lansing that are charitable, organizations not like Lansing that are religious, and there are quite a few government organizations. We could have



set up the property and put it into the ownership of the city of North York with a lease to Lansing, but continued the same process that was there before. Lansing owned the property and it will continue to own the property indefinitely until it ceases to continue operations.

Under the Assessment Act, there were three paragraphs in section 3 we discussed with the assessment commissioner. The most appropriate would have been a seminary of learning, whether or not Lansing Cooperative Nursery School qualified as a seminary of learning. There was quite a bit of bureaucratic debate going back and forth and it was determined that probably the better way to do it, rather than leaving it in the hands of the assessment commissioner, would be to make an application for a private bill. The city of North York and the council of the city of North York fully supported that and that was their recommendation, and they imposed a variety of conditions if we were to obtain passage of this bill.

Paragraph 4, paragraph 6 and paragraph 12 in the Assessment Act, either one of those was very close to falling within that jurisdiction, wherein if we would have been interpreted as being covered by those provisions, the assessment commissioner would have automatically given us an exemption.

**Mr Shea:** I appreciate your response in terms of the Assessment Act. I understand it reasonably well and I appreciate your comments. I will ask for comments later on the word "may" be eligible for exemption. I reflect upon that word with more than interest. To have pressed this nursery school as a seminary of learning I think may be pressing the envelope beyond its capacity, but let's press on because I'm less fussed about that than I am about the role of North York in this.

We now know we're talking about retroactivity. We're talking about going back to 1995 and it's taken till 1997 for this matter to come before us or to go anywhere for that matter. At this point, it is, let me assure you, very clear it was only a few weeks ago that the municipality of Metropolitan Toronto was asked to take up the issue of forgoing its portion of the taxes. Is that correct?

**Mr Forgione:** That is correct.

**Mr Shea:** It was only a matter of just a few weeks ago that the board of education was asked to take up the issue of forgoing its taxes.

**Mr Forgione:** We had had prior discussions in early 1997.

**Mr Shea:** It's indicated to me that on or about July 8 you gave your formal request to the board to consider.

**Mr Forgione:** That's true. A formal request was made.

**Mr Shea:** Has the Metropolitan school board been approached?

**Mr Forgione:** No, they have no.

**Mr Shea:** Thank you. At this point, all I have before me anyhow as a matter of the committee is a suggestion that the North York council would like us, in lieu of doing a grant in lieu, to do a private bill, and you've indicated in your response that there is a series of terms and conditions they've applied to their agreement to letting you get a

private bill. Are those terms and conditions laid before the committee?

**Mr Forgione:** The terms and conditions were part of a resolution that was passed. I'm not sure if they're in as part of the compendium of background information. I don't believe they are, so I don't believe it is before your committee. But the conditions, and indeed the bill itself is drafted in a very flexible manner. It deals with issues such as non-distribution of capital profits to the members, which is a very important aspect of Lansing. If Lansing ceased to operate, there would be no distribution of the capital profits of Lansing to its members. It would just revert to the city of North York.

**Mr Shea:** So it's the usual wind-down of a cooperative and ensuring that the assets flow back to the corporation of North York or what will then be the city of Toronto?

**Mr Forgione:** Exactly. There are also some restrictions on its use and payback of any property taxes that were exempted improperly. So if it's determined at a later date that Lansing did change its use, there would be a clause regarding payback.

**Mr Shea:** Thank you. That answers most of my questions.

I think the parliamentary assistant has made the government's point clear and I'm persuaded there's a lot of merit in that. I am troubled because there is a part of me that supports what my distinguished colleague from Sault Ste Marie spoke about in terms of the importance of day care service in our municipality — I know that also is on the mind of your sponsor — and my difficulty is that I don't want to do the wrong thing for the right reason. While this is an important act, I think the parliamentary assistant has pointed out some serious concerns, this being as unique as it is, that somehow I think the city of North York has got to meet its responsibility. It owns the property. It has allowed you access to the property for the provision of a service.

I must confess I am at a loss to understand why the council would not have taken the step that any other council would have done, to have said, "Yes, grants in lieu," instead of driving you on to the Legislative Assembly for a private bill, which is absolutely bizarre, to say the least. Once it's on, it's on, and all tangled up, and so forth. This could have been resolved a couple of years ago. The sponsors and the supporters of the centre would not have been put through any of this awkwardness. In fact the city of North York could give you relief within a week if it chose to do so. I'm going to support, aside from that — I have a real concern about the unravelling of a tax base. I am more concerned about allowing local municipalities to make the decision of who they will exempt and what will be exempted.

I have great respect for the authority and responsibility. The only area I have always said I'm concerned about in this committee is particularly ensuring that municipalities have a cap on the maximum amount, because there is tremendous pressure on local politicians to exempt and exempt, and I understand that and I respect that. I think somehow we need some comfort there is a cap, so that



whatever you do, it has to be done within that envelope. You can't go beyond that. Every time you exempt, it means everybody that is paying taxes now pay more. That's what you really do. You have to be very careful how you weave this.

This is not to make any comment at all, negatively in any way, shape or form about the service you're performing. I'm now dealing in terms of municipal government and the structures of assessment, and what's involved in that regard, so the best I can do is support the recommendations of the parliamentary assistant. If I hear arguments around the table that would persuade me to defer this matter, to give you time to come in with all the letters in hand from all the principals saying, "Yes, we will forgo the taxes," I could be pressed to the wall a little bit for that, but I confess I would be pressed to the wall to even support it then.

I am offended beyond belief that the city council of North York would put you in this position and that this would not have been dealt with before this time. That has not done you a great service and it certainly doesn't do us a great service here. I won't prolong the matter but I will support the parliamentary assistant's comments. Thank you.

**Mr John Gerretsen (Kingston and The Islands):** Just a couple of questions on your financial situation: How many students actually attend the nursery school, or how many children do you have there?

**Ms Sasso:** We can have up to 40 children in the school. Presently we only have 17 because when JK came into effect the school lost a lot of students going to the regular public school system. Our enrolment is quite low this year. We're hoping that we will bring our enrolment up by the middle of the year.

**Mr Gerretsen:** How are you funded? Are you primarily funded privately or are you funded by government in one way or another?

**Ms Sasso:** We're primarily funded privately by parents, by enrolment fees. We don't receive anything otherwise from anyone.

**Mr Gerretsen:** What's your annual budget on a year-to-year basis?

**Ms Sasso:** Our annual budget is around \$47,000.

**Mr Gerretsen:** Is this your major debt, whatever you owe in outstanding taxes?

**Ms Sasso:** Presently — sorry, can you rephrase that question?

**Mr Gerretsen:** Do you have any other major indebtedness other than what you owe in the outstanding taxes?

**Ms Sasso:** No, we do not.

1050

**Mr Gerretsen:** Those are all the questions I have, Mr Chair. We will get an opportunity to discuss this later on, will we? No? If not I'll just put in my two cents worth right now and indicate that I don't see what the problem is, quite frankly.

If this is a government that believes in giving greater powers to local municipalities, as it has been saying through its downloading legislation and through other

pronouncements that have been made over the last couple of years, then why should it not be up to the local municipality to decide who they are going to exempt or who they are going to give grants to? It's made to sound as if this is a fait accompli if we pass this bill. All this bill does is give the local municipality permissive legislation to exempt the taxes that may be owing.

I have some difficulty with respect to the outstanding taxes. I think whatever the rules of the game were back in 1995-96 ought to be respected. This may give some hardship to the organization but those rules can be changed, and once they change, let the local municipality decide whether there should be any further tax indebtedness owing. I honestly don't see why we're even dealing with these kinds of matters by way of a private member's bill. The ministry could do itself and all of us a big favour and also really live up to its pronouncement that it believes municipalities are true partners in the governing of this province by giving them the outright authority to determine whether taxes in particular situations should or should not be.

I realize the ministry people will say that ultimately a municipality could forgive everybody's taxes and only have one person pay the tax load for the entire shot, for the entire municipality. That's obviously never going to happen. There's going to be enough of a public outcry if these kinds of things are incurred in situations which are totally unwarranted. But we've made exemptions here before for group homes, and for other institutions.

I would prefer to see a situation where the government, and I think we talked about this before, would come up with a recommendation that in a certain series of endeavours, local municipalities have the complete power and authority to either impose taxes or not. This is one of those perfect examples. I support this bill for the strict reason that I believe municipalities ought to be given more individual powers to decide these things. These things are much better decided at the local level where there's an understanding of the particular services that are being given, than us sitting around a table here at Queen's Park, quite frankly.

**The Vice-Chair:** Thank you, Mr Gerretsen. I know you were a bit late today. However your colleague, Mr Ruprecht, brought up the same point with regard to —

**Mr Gerretsen:** We always think alike, Mr Chair.

**The Vice-Chair:** I'm glad to see there's consistency. I informed the committee that we would have the opportunity to deal with this issue as a committee in the very near future. I'll proceed with Mr Ruprecht.

**Mr Ruprecht:** I'm trying to be helpful to Mr Forgione and Ms Sasso, but what concerns me quite a bit is that the request that is before Councillor Gardner right now — if I understood you correctly, you're saying that the councillor right now has made a request to the municipality of North York in terms of these taxes. Is this correct? Where is it at in terms of the exemption that concerns Councillor Gardner and North York?

**Mr Forgione:** Councillor Gardner, in a motion seconded by Caroline Di Giovanni, will be passing a motion to



exempt Lansing from property taxes for 1996-97 because that was all they could do within their power, as it was explained to me.

**Mr Ruprecht:** They will be doing that, but they haven't done that yet because the council hasn't met at a certain time.

**Mr Forgiione:** Exactly. We were unable to get on to the previous meeting and we needed to provide more documents for Councillor Gardner.

**Mr Ruprecht:** I too am very sympathetic to you and agree with Mr Gerretsen's point earlier, but what concerns me is precisely this whole idea of process here. I don't even know, as Mr Shea said earlier, how in terms of process this application comes before this committee without having gone through some of these steps you've got to go through. While we're sympathetic with you, the process is really part of the problem, and that's why I'm really glad staff is going to make some recommendations and you're going to approve them, I understand, next time we meet, so that this doesn't happen again.

I think what happened here behind the scenes is almost as important as what happens in front of you. Most of us have reservations in terms of this process when the exemption of the school board hasn't been nailed down, and certainly you're only in the process in terms of the municipality of North York. I would think that you would have had a greater chance, to be helpful, if those two levels would have been negotiated with, and then come before this committee.

In addition to all of that, of course, we're right now in the process of working out how this should come before the committee, or whether in the future these kinds of items should even come to the committee, because the government might be able to say either yes or no to you, or give the power, as Mr Gerretsen says, to the municipality to do it directly.

**The Vice-Chair:** I am informed the applicants were aware of the process. However, they decided to proceed with the bill itself, just for your information. Mr Martin, you had your hand up.

**Mr Martin:** Just to maybe shed some light on why we find this group before us today, I know I've sat here and listened to other groups come forward, and it seems we get more and more of them all the time, from municipalities looking for this kind of an exemption.

Municipalities are becoming inundated more and more with requests of this sort, as non-profit charitable organizations find themselves under the gun in their communities because of the impact on them re their ability to raise funds, because services that used to be provided by government are no longer provided by provincial government, or the amount of money going to those services has been reduced to such a point that they are now out there competing for that charitable dollar, so it's becoming more and more a competitive field.

Some organizations that were getting by with the little bit of donation that they get and the contribution from the people participating are now finding themselves in a position where they can't and they're becoming quite desper-

ate. Municipalities are becoming quite desperate about this as well because they know, as Mr Shea has said, that their ability to provide even the basic services they have traditionally provided or are mandated to provide is now in question because of the download of this government that's happening. Everybody is being squeezed.

I would suggest to you that perhaps the reason we're getting more applications of this sort before this committee is that municipalities and others are beginning to come to the realization that it is this level of government that's causing the dilemma they're confronting, that's imposing on groups such as this and the municipalities the kind of financial concern they're facing now that they didn't face five or 10 years ago. That's why this is before us and that's why it is appropriately dealt with here, given the present context of legislation and regulation.

I would suggest, given the conversation we've had around the table here this morning, and would make a motion to the effect, following up on a suggestion by Mr Shea, that we defer this until we hear from the two government bodies that are now dealing with this, possibly passing resolutions in the next few weeks, and that we bring this back before us at that time, and that we perhaps, out of respect to the issues raised by Mr Shea, ask those levels of government to appear and explain to us why it is we find ourselves dealing with this, so that you might have a more supportive audience and perhaps some other people to support your request.

We might be more aware of the reasons behind the situation that this non-profit cooperative day care finds itself in, and might at that point have the benefit of the resolutions that are passed by these levels of government in front of us so that we could vote accordingly.

I would move a motion of deferral until we have those resolutions.

1100

**The Vice-Chair:** Mr Martin has moved a motion of deferral on this particular bill. Is there any further discussion?

**Mr Shea:** May I ask a question of the parliamentary assistant?

**The Vice-Chair:** Certainly.

**Mr Shea:** I'd like his response to that, because I know there are a couple of points here. Again, it involves the issue of exemptions. Mr Gerretsen's comments notwithstanding, the fact is that grants in lieu have been a long-standing right and responsibility of municipalities right now, and the local municipality hasn't done it. So his thundering about the importance and significance of local government is meaningless. The fact is that government has sloughed it off and it has left this organization in a very awkward crack. I think it would have resolved it a long time ago if they had dealt with it themselves.

Setting that part aside, I'd like to ask the parliamentary assistant for comments about the possibility of deferring this matter. Does the parliamentary assistant believe there is any merit in deferring it? Does that give the government time to respond to any other issues that are outstanding



here? I suspect it may be difficult, given what we are faced with at this point, but can I have his comments?

**Mr Hardeman:** The concern I would have with supporting a resolution for deferral, first of all, relates mostly to the applicants. I would suggest from some of the discussion we've had that there are alternatives to this bill that should come into play, such as grants in lieu or something like that from the local municipality. I would point out to the applicants and to the committee that a deferral would stop that from happening. You would go back to the city and say: "We've proceeded with the bill. It has come before the committee and it has been deferred." The city would then take no action and your taxes would keep building. In subsequent appearances, the retroactivity that is being proposed in this bill would become greater and greater.

I think the reason we would give a deferral would be to get the motions of support from the school board and the upper tier. I would point out that as of January 1, the school board would in all probability not be in the position to give that approval to start with. So if we're looking for a deferral that would last beyond the three or four months, it would be highly unlikely that one would get a motion of support from a school board that would carry the weight that says they could forgive provincial taxation.

So a deferral, in my opinion, would not serve a useful purpose for the applicants. Obviously, one can defer the issue and come back to this type of discussion two or three months down the road, but I think in the facts as they are before us now, it would be unlikely that those requirements that are being referred to would be achieved.

I would point out that I have a list of some applications that have been deferred in the past for exactly those same reasons, because they did not have the required support. The listing I have goes back to three and four years ago that they were before this committee with that deferral and they have not been back. I can reasonably assume that either they decided they didn't want the tax exemption or they were unable to get that local support.

**Mr Gerretsen:** There may be another reason as well.

**Mr Hardeman:** There may be numerous reasons. The only reason I point that out is again for the benefit of the applicants. If it's going to be two or three years, it would delay the decision of the grant from the city to help defray the cost of your taxation. So I think if a decision is going to be made on this issue, it will serve the applicants best to have a decision made today.

**Mr Gerretsen:** I always believe in being straight up and honest with applicants when they come before you. Over my years in government I've seen too many applicants simply deferred for the wrong reason, giving applicants hope where there isn't any hope. I guess the real question that has to be asked of the parliamentary assistant is, is the ministry likely to change its mind if two resolutions come in from the necessary local government and the local school board supporting the application? Will you change your mind? If not, it would just be making these people try to believe something that isn't happening. Let's be straight up front with them.

**The Vice-Chair:** Do you wish to reply to Mr Gerretsen?

**Mr Hardeman:** I do, and I would point out that I'm not in the position to suggest that the ministry or the minister would not change their minds if evidence came forward that would require them to do that. All the information that is before us today and any policy decisions that the government has made take us in the direction that the government believes the appropriate way to deal with these matters is grants in lieu as opposed to tax exemptions. So I would suggest that even though the resolutions came forward, the ministry and the minister would seriously consider still advising the applicants that it should be done through the grant process rather than the tax exemptions.

If I could just quickly go on with a couple of other points I would like to make on some of the discussion that has taken place, I want to reiterate that the government is not opposed to this type of function and is not suggesting that the organization is not doing good work, nor that they should not receive a grant in lieu of the taxation that they're paying from the city. The government believes that this is an inappropriate way of funding the organization, as opposed to giving it direct and up front. I think the city, if they support it in this way by resolution, should take those same tax dollars and just give them back to you. If they feel it is appropriate that they give you the exemption retroactively, that's the same purse that they are going to take it out of if they gave it to you in a grant.

As it deals with Mr Gerretsen's comments about local autonomy, I think the province has been very consistent and still is. We believe it should be local autonomy, it should be local decision-making, it should be your city that decides whether you should get that grant or should not get that grant. But your city councillor should not be making that decision on behalf of the region and your city council should not be making that decision on behalf of the board of education. Local autonomy applies to everyone, not just to certain individuals who make decisions on others' behalf. The upper tier too can give a grant in lieu of the taxation, so again they should be asked for that same consideration and it should be done in that process.

The grant structure will allow the municipality to do exactly what they're asking for in this bill, and I would advise the applicants to proceed on that route.

**Mr Gerretsen:** Just as a matter of information, subsection 4(1) specifically states, "A school board entitled to share in the assessment of the land for school purposes may by resolution direct the city to cancel the taxes payable...." In other words, the way I read this private bill, it is up to each individual body that currently shares in the tax revenue in that municipality, whether it's a school board or whether it's the local municipality, whether for their purposes this particular situation should be exempted.

**Mr Shea:** I just said that.

**Mr Gerretsen:** I don't think you quite said that.

*Interjection.*



**The Vice-Chair:** Thank you for your comment. I'm not going to allow discussion across the room. Mr Martin, you had your hand up.

**Mr Martin:** I just wanted to say that I agree with the parliamentary assistant when he says that no level of government should be making decisions for another level of government. That's why I'm asking for this deferral: to wait and see what those other two levels of government have to say. I don't think you're suggesting for a second that this group shouldn't be before us here, that this isn't an appropriate route for them to take. I don't think you're saying that. At least I hope you're not.

The other thing I'd like to say is that I think it's unfair for the parliamentary assistant to assume or presume on behalf of the applicants that they would, first of all, not come back, or that they would have some difficulty with a month or so extra retroactivity. They may want the opportunity to go and make sure they have those resolutions and bring them back here and make that further argument. So I'd like to ask the applicants if they would like to respond to that question and I'd also like to ask the member who has sponsored this bill if he's in support of a deferral.

**Mr Turnbull:** As I stated at the beginning, this applicant comes from the Attorney General's riding. I've always taken the position with respect to anything that goes on in my own riding that if an application comes forward, I will vet it and I will express my opinion. I feel that it's inappropriate for those people who live in an area which is represented by a cabinet minister not to have the opportunity to be able to bring forward private bills. For that reason, I make a principal point of saying it's inappropriate for a member to express an opinion upon matters pertaining to other areas that they don't represent, other than in a general sense.

1110

**Mr Gerretsen:** So are you supporting this or not?

**Mr Turnbull:** I have sponsored it and I have explained my position, Mr Gerretsen.

**Mr Martin:** I'd like to hear from the applicants their position. Mr Forgiione, if I could ask you?

**Mr Forgiione:** If I could speak on the issue of deferral and municipal support, the reason we're here, the issue of deferral comes into play because of the fact that effective January 1, 1998, the corporation of the city of North York will no longer exist. We've received support from the municipal level. Mayor Mel Lastman, councillor John Filion and a variety of other councillors have offered their support to us. So we do have local support for our proposal.

They have advised me — "they" being the legal department for the city of North York, and maybe this advice is incorrect — that the grant cannot be provided at this date due to the transition legislation passed by this government. That is the reason we're not getting a grant. Maybe if this deferral will be granted so we can clarify that — parliamentary assistant, I appreciate your recommendation — we can make further inquiries into whether or not a grant is available, because the city of North York would definitely provide us with a grant to offset the exist-

ing taxes if they're in a position to do so. They have indeed provided us with an indication that they would support us in any event.

If it is a condition of obtaining a deferral that we apply to the city of North York for a grant, then I am prepared to accept deferral. If it's just an issue of passing us off and not dealing with us for a few years as our tax bill escalates and as nursery schools in the area are closing — and indeed there are three or four schools that we know of that have closed this year. As our tax bill increases and increases and there's a threat now of a cutback to our grant to pay for the teachers effective 1998, deferral may just mean the end of the school unless it's dealt with in the next couple of months. Part of me says we are prepared to accept deferral if it deals just with the issue of grants, but if it's just a blanket deferral, we're not prepared to accept it, because it would mean the end of the school.

**Mr Shea:** Sorry. Would you just repeat that last sentence? You're saying if it's just a blanket deferral, you won't accept that; and you want a decision made right now?

**Mr Forgiione:** No. We will be able to obtain the support of the municipality of Metropolitan Toronto, we believe. With respect to the Toronto Board of Education, I'm not sure whether we will obtain their support before January 1, 1998. After January 1, 1998, their support won't be very relevant.

**Mr Shea:** So your comment was that a blanket deferral doesn't do you any good. Deal with it now; make your decision now or not. That's what you're essentially saying.

**Mr Forgiione:** No. If you're prepared to give us a deferral so we can canvass whether or not a grant would be available from the city of North York, if that was a condition of the deferral, we would feel that's appropriate.

**Mr Shea:** Let me respond to a comment made earlier, just a few moments ago, that perhaps placed the intentions of the parliamentary assistant under some scrutiny. I would rise to challenge that. I think the parliamentary assistant has outlined the position of the government very clearly and very precisely. I don't think there's any presumption on the part of the parliamentary assistant, nor is there any such intention. I think he's trying to be very clear about the position of the government.

I am overwhelmed by the response that someone would suggest that the transition legislation has precluded the giving of a grant. I will try not to guffaw. I will try not to fall over laughing. I will try not to say how silly that is. To suggest, for example, that the transition legislation precludes that is just patent nonsense. The legislation is very clear for anyone who understands that. If any expenditures are within the budgets — you know as well as I do there was a great outrage about the possibility of controlling expenditures by municipalities, and indeed the government said: "Fine. You carry on. There will be an oversight. We can advise the taxpayers if there are untoward expenditures, but the fact is that it is your right to spend it."

Indeed, if you read some editorials in recent newspapers, including the Toronto Star, they have thundered and



thundered against local councils for expenditures of all sorts, including dipping into their reserve funds, and we've seen that going on in the last few months. The kinds of concerns the government expressed in the amalgamation legislation are in some measure coming true. The government stepped aside from that — reluctantly, but stepped aside out of respect to local decision-making, and we've seen some awesome results.

Anyone trying to tell you that it is the transition legislation that is creating awkwardness for the giving of grants, please look them in the eyes and ask them to pause and pray for five minutes. The fact is that that is simply untrue. To the best of my knowledge, if it is within its budget particularly, they have capacities to do line movements within budgets and so forth. To say they have no capacity to give grants in lieu is just simply untoward.

The final point I want to raise is that what really troubles me is that I have a bill before me in which you may or may not fit anyhow. I understand your argument that you do fit within the categories. I challenge that, because I don't think that's clear. I think that's not clear from what's before us. That's a concern I have, and I made that in my opening comments.

The second part to it is that I am deeply concerned about the fact that your application only went before Metropolitan Toronto and before the local board of ed. You said the Toronto Board of Education; I assume you mean the North York Board of Education. I assume you mean that, from what documentation I have before me, unless we're dealing with two different municipalities.

**Mr Forgiione:** It's the Toronto Board of Education.

**Mr Shea:** The Toronto Board of Education. Well, you just opened up another can of worms for me. I now have to pause and say, you've asked the North York council to exempt you, but you've applied to the board of ed of the city of Toronto for exemption?

**Ms Sasso:** Just to North York. Judi Codd is North York; she's councillor for North York. We've also asked for Marguerite Jackson's support. She is the director and secretary-treasurer of the North York Board of Education.

**Mr Shea:** I appreciate all of that, and with all due respect, it doesn't matter to me who was asked. The fact is, what is before me, the documentation before me, says North York city council has said this will be a good thing and so they gave you the Martha Stewart imprimatur and said, "Go forward and see if you can get a bill passed."

The clerk has put before me documentation saying that the municipality of Metropolitan Toronto received notice on or about July 8, 1997, just a few weeks ago. This has not exactly been in the works for two years. The Toronto Board of Education received notice on July 8. That is what's before me — not the North York Board of Education. There's nothing talking about an application to the Metropolitan Toronto school board as well, which is also a funding body.

I must confess I am troubled because you are asking even for a deferral, and information before me is not accurate. There is a real question about whether you fit into this or not, into the definitions. There is some concern on

my part about the fact that there was such late application. I know that you may be troubled about the timing of the new and better city of Toronto, but I confess I will not be driven by those timetables. I will be driven to do what is right.

Maybe I can pause for a moment and just ask — I know your sponsor wants to speak, but let me first ask if the clerk can please explain to me why I have a documentation before me that says an application was made to the Toronto Board of Education.

**Clerk of the Committee (Mr Tom Prins):** That was the information supplied to us by the applicant. That's their compendium. I don't produce that document.

**Mr Shea:** Thank you. I have no further comments.

**The Vice-Chair:** Mr Shea, I have two speakers, the sponsor and Mr Gerretsen, briefly. One comment that I would also like to make with regard to the motion from Mr Martin on deferring the bill is that I think members should also consider that fact that if the House rises, it may delay the process impact on the process.

**Mr Gerretsen:** First of all, I always appreciate the thunder from the member for High Park-Swansea. Well done.

Look, we've got a practical problem here. We've got an organization that has an indebtedness of \$30,000. They have presumably approached their council and their council is saying to them, rightly or wrongly, Mr Shea: "Because of the transition rules, we cannot give a grant. You've got to go by way of a private bill."

That's why they're here. All they're asking for is permissive legislation so they then have the legislation to go back to the appropriate school board and the appropriate council and say, "Will you pass a bylaw implementing this act?" This is just permissive legislation. We are not cancelling any taxes here on behalf of anybody. It just allows them to follow the process through by the end of year to make it happen.

**1120**

If we're going to delay it in any way, shape, or form, then in effect we have killed their request. Let's be very blunt and up front about that. The question we have to answer to each one of our own consciences is, do we agree they should have permissive legislation so they can take it the next step and get the necessary resolutions passed, which may or may not be passed by the appropriate local council and the school board?

That's all they're asking for, to allow them, to straighten out their financial situation as far as the taxes are concerned, by the end of the year; obviously by the end of the year it's going to be a totally new game. They will have to appeal presumably to a new Metro council and they may have to appeal directly to the province at that point in time, since the province will be totally involved in the education funding.

Why do we with all sorts of clouds and mirrors make it more difficult for them? Let's give them the opportunity to go back to their local council and their local school board to get the necessary resolution passed. It's up to those two bodies whether or not they will actually pass the required



resolutions. If we somehow stall this, let's be up front with them and say, "Look, we don't believe in your cause."

I think that's the way we ought to deal with it. Let's pass this private bill so they can get on with their lives and make the necessary applications and let those two bodies then decide whether or not they will go along. Any other kind of dealings with this matter here today will mean this particular application, as far as they're concerned, is dead, and let's be up front and tell them that.

**Mr Turnbull:** Unfortunately I have to leave to go to another meeting. I believe we can cut to the chase in this matter. The question should be asked, "Even if the applicant were to come back, if there was a deferral granted, with agreement from the Metro school board, the North York school board and Metro itself to this, would the government feel it appropriate, in view of the new funding arrangements, to grant such an application?"

If the answer is no, it probably serves the applicant better to be told that now by the parliamentary assistant so that they can get on with their life and go back to North York, which does in fact have the right to grant the grants in lieu, which they could have done prior to coming here. A simple answer to that will probably resolve whether a deferral would be useful.

**Mr Hardeman:** I would agree with Mr Turnbull that I think that is the most important issue we're dealing with here. I would point out that in Bill 149, which is presently before the Legislature, there's clear indication that the province does not believe this is the appropriate way to deal with the taxes on day care and child care centres. When Bill 149 is passed, and this bill came before this committee, it would be in my opinion out of order because it would be in direct contradiction to what government policy will be. I would point out that is not government law today. Bill 149 has not been passed.

But I do envision that by the time a deferral was to come back here, that would be the law and those would be the criteria that would be used to judge the application. On that point I agree with Mr Gerretsen when he said, "Why don't we tell it like it is?" I'm not trying to discourage the applicants from requesting and accepting a deferral and coming back. I'm just saying that as I see the application, your chances of success are not improving as time goes on. The option the government is supporting, grants in lieu as opposed to tax exemptions, I think should be pursued as quickly as possible and as opposed to delaying it through this bill for a period of time and then asking for the other grant.

I would also point out the question was asked by the applicant about the transition and I think Mr Shea covered it. There is a maximum amount the council presently can deal with, unbudgeted amounts they can spend. The amount is well in excess of your total tax bill. Not being a lawyer, I would deem that they would have every ability under the present structure to deal with a grant-in-lieu situation in your situation, that they would not require this bill nor would they require the approval of the transition committee. I think it's stretching it to suggest that they

cannot make a decision, that this body would have to make it.

**The Vice-Chair:** Thank you, Mr Hardeman. Mr Martin, you have the last question. I'll give you a minute, please.

**Mr Martin:** Are you cutting off political debate?

**The Vice-Chair:** I think we've had a fair amount of debate. We've gone well over one hour on this particular issue.

**Mr Martin:** I think the applicants have gone to tremendous trouble and difficulty and work to be here today, and to not give them a full hearing and allow those who want to speak perhaps on their behalf to put our thoughts on the record is —

**The Vice-Chair:** Mr Martin, I take strong objection to the statement you've made. I think everyone around this committee room this morning has had a good opportunity to address this particular bill. I want it straight on the record that I have given everyone in this room equal time, whatever they wanted.

**Mr Martin:** Except that now you're bringing the hammer down —

**The Vice-Chair:** I think we've been well over an hour on this bill.

**Mr Martin:** — which is in keeping with the course of this government over the last two and a half years and that's unfortunate.

**The Vice-Chair:** What is your question?

**Mr Martin:** I would just like to say a couple of things. I would hope that Mr Shea was not lecturing the applicants here about their understanding of the process and what they've done or not done or mistakes they've made. I would suggest this process at Queen's Park is a rather confusing and big and intimidating one for anybody to participate in. I know myself, after seven years, there are moments when I find it somewhat inhibiting re my ability to freely express myself and follow the proper process, and in that way be effective in at least going the limit to have my concern addressed or my questions answered.

Perhaps the applicants today, perhaps somebody else, made some mistakes in terms of the information that was presented, in their haste to resolve a problem that was on their shoulders. I think, Mr Shea, if like me you've been involved in charitable work and belonged to an organization where debt has become a huge problem, you do anything in your power to try and get yourself out from under it. Sometimes you go up five or six blind alleys before you find one that's open and gives you some relief at the end of the day.

It's difficult, particularly in today's environment, as you try to keep alive something that you feel is very valuable to you and to your community and to the parents you work with, and you see around you other operations such as you're running falling by the way, you do everything you can to try and save it and give it some life and keep it going.

I just want to say to the applicants that I appreciate the sincerity and effort you're making to try and find some resolution to the very difficult problem you confront. I am



going to vote to allow you some more time, if that's what you need, to explore some other possibilities, to make sure your documentation in front of this committee is in fact correct, that you have a full presentation of what you want.

If you can get some advice from somebody else out there, if you can come back here and make some further arguments, the parliamentary assistant has already said they're not going to presume to make a decision today as to what they would say then, because you may come up with some other angles or avenues or letters of support that might convince the parliamentary assistant and this government and the members opposite that you have a case.

I'm going to continue to support a deferral so that you have that time to correct any mistakes you may have inadvertently made and to get in place, out of the conversation we've had here today, the appropriate documentation so you can come back and make a full presentation and a full appeal to this committee.

That will be my final comment today, Chair, and I appreciate the opportunity to have made it.

**The Vice-Chair:** Thank you, Mr Martin.

1130

**Mr Shea:** Could the parliamentary assistant advise where we are in terms of revisions to the Municipal Act?

**The Vice-Chair:** Certainly.

**Mr Shea:** There has been discussion in this committee for the last year or so about changing this series, this litany of applications, as you know, so that local councils would not have to seek or encourage organizations to seek redress through private bills. Could you tell the committee where we are at this stage as a revision of that act?

**Mr Hardeman:** My understanding is that there will be an introduction of a new Municipal Act some time in the fall of this year. How it relates to tax exemptions of course is still part of the debate and part of the discussion as we are preparing the document.

**Mr Shea:** But the minister is aware of the discussions of this committee and the issue that's been raised increasingly, that this is likely the sort of bill that no longer really should need to come to this committee if you find a way to enable local governments to deal with this matter on their own, within certain parameters. I gather that is something the minister at least is giving consideration to.

**Mr Hardeman:** I would point out to the committee member that the issue again relates to grants as opposed to tax exemptions. If we're talking about tax exemptions, which would be an exemption to a provincial policy, it requires this type of function. If we're talking about grants, that municipalities are allowed to, or are given the authority to give grants in lieu of taxation, the present Municipal Act allows that and there's no reason to believe a new Municipal Act would not allow municipalities to do similar things.

**Mr Shea:** Clearly it begs a couple of other questions. Are those that are currently subject to relief going to be

grandfathered or will they all be subject to municipal review? That's something obviously I would think –

**Mr Hardeman:** I'm not in a position to speak on that.

**Mr Shea:** No, of course not. It's something the Municipal Act discussion would have to reflect upon, but it will be a difficult decision for the government to take. The other question is, will you confirm, and maybe it's the clerk who can advise, that even if this committee were to say no today, there's nothing to preclude this applicant from making a further application?

**Mr Hardeman:** My understanding, and we'll let the clerk answer too, is that there's absolutely nothing that prevents anyone from making an application on any issue at any time.

**Mr Shea:** And if the application were armed with all the associated documentation that it's supposed to be armed with as it comes forward, it could indeed come forward at any time, armed with all that documentation?

**Clerk of the Committee:** If the matter is settled today, hypothetically let's say it was defeated, if they wanted to come before the committee again, yes, they very well could, but they'd be starting with the process from stage one.

**Mr Shea:** In your experience, Mr Clerk, what is the backlog you're wrestling with right now?

**Clerk of the Committee:** We probably have four or five bills that are fairly close to finished that could come before this committee in the next little while. Again that's subject to when the House rises, how many more meetings we'll have.

**Mr Shea:** So you're not exactly overloaded. The world is not overloaded in your regard, so there could be accommodation done on this if this applicant were to meet all the requirements. Thank you very much.

**Mr Hardeman:** One quick comment: As we discussed the resolution for deferral, and I think Mr Martin pointed out his reasons why he was suggesting the deferral, to get the appropriate resolutions in support of the bill, I would point out that in my presentation when the bill started that was not the top criterion of why I was speaking against the bill. It was not those resolutions that my major concern when I presented, shall we say, our side of the story. I did not know whether you had the resolutions or not. To tell it like it is, I would not want to suggest that a vote for a deferral will cause an approval when you come back with resolutions. It would start a whole new discussion, so I don't want to leave the impression that is what this whole hearing hinged upon.

**Mr Shea:** Could we refresh our memory about the central argument made at beginning of this presentation?

**Ms Sasso:** I know this is very confusing. The problem with our school is because we are volunteer parents. I am a parent this year; I have two of my children there. We pass on this information to the next parent who is coming into the school. I can appreciate what you're saying, Mr Shea, why are we presenting this all of a sudden right now? We haven't just presented it all of a sudden now. This process has been going on for years now, but maybe



because of bad advice, and this ring-around we're going through, like circles right now, with all these presentations, we haven't been given the proper advice. That's why we are here at present, because we've been told this is the place to be, "This is the place you need to go to," so I can respect everyone's decision here.

**Mr Forgiione:** With respect to retaining the services of a lawyer, it just occurred this year. Previous discussions were through the city of North York, and the city of North York tried to guide Lansing and its executive committee in a direction. The city of North York is the one that referred us here.

There are several issues that I think are important. We're speaking about some pending legislation and it's not the policy of the existing government to provide such exemptions. But sections 3 and 4 of the Assessment Act are still in place and the truth is that there are hundreds and thousands of organizations in Ontario that are exempt from payment of property taxes.

I must be straight with you that we're one of the best organizations in terms of the facilities we provide, the services we provide. If it was denominational in its slant, in its teachings, Lansing would have obtained an exemption under section 3. But the fact that it's non-denominational is hurting it. The fact that it's a nursery school — it's being treated as though it's a day-care, but it's not a day care; it's actually a school process and it's teaching preschoolers. All these things are hurting Lansing.

Lansing is unique. Lansing is unique in many ways. It owns its own property, which is the only nursery school we know of that owns its own property. So if it's an issue of setting a precedent by passing this legislation, you won't be setting a precedent because, once again, it is unique in that nature.

The bill itself is flexible. All you're really doing is permitting the municipality to make a decision. You're passing it down to the municipal level. It's permissive legislation. The municipality can append whatever conditions it believes are appropriate. Indeed, in its resolution passed in 1996 approving an exemption for Lansing a whole series of conditions were appended to it. It's anticipated the same kind of conditions would be appended to any future bill that was passed.

We have to realize that we're asking for a political solution. We're not asking for a bureaucratic solution and going to the assessment commissioner and speaking about an exemption because bureaucratic solutions can be overturned and subject to the whim of process. The problem and the dilemma facing Lansing is a political problem. It was at the urging of the city of North York and the politicians, and Mayor Mel Lastman and Councillor John Filion, and that's why they feel some liability on this issue. It was their urging that the new location be built for Lansing and Lansing move into it, so we're looking for a political solution to a political problem.

To refer it back to some bureaucratic level, we're just going to run into more roadblocks and time will run out on us and Lansing will eventually cease to exist. It has been an institution in Willowdale for 45 years and it's on its

last legs. If we weren't desperate we wouldn't be here. I think that's an important issue.

In terms of deferral and where we go from here, I think you have to realize that the cost to get to this stage for Lansing was several thousand dollars in terms of advertising, in terms of retaining counsel, in terms of having all the distributions to the government and municipal level. They've already spent a couple of thousand of dollars just to get to this stage. For them, it's quite a bit of money because they just rely on parent contributions. To strike it down and to anticipate us coming back again is unbelievable.

If we could defer this, it would be better than total rejection. That would allow us the opportunity to canvass whether or not a grant would be available. But even on the issue of grants and annual grants, there is the cost associated with having to make an application for a grant on an annual basis and having to retain counsel or some advisers to do that because the parents, as skilled as they are, are not professionals. They rely on the opinion of other professionals and politicians. It's expecting a lot for an organization such as Lansing, which is cooperative and parent-run, to have to make annual applications to the municipal government.

This bill would pass over the obligation to the municipal government. Now that they have a lawyer who can negotiate some kind of an arrangement or resolution with the municipal government, we can put it in place for a long time to come and they would be able to operate without having to incur additional costs on an annual basis. There are a variety of reasons.

I know the bill before you is not supported by the proper resolutions. If it's necessary, we can get the proper resolutions. We believed we were under time constraints and we wanted to deal with this issue prior to January 1, 1998. Possibly we received some improper advice. If it's necessary, if the alternative is to reject our bill, then our proposal would be to allow some time to defer. Let us canvass whether or not we can obtain a grant. I think that's the proper way to deal with it. So the applicant would be in support of a deferral, if it means rejection, but obviously we would seek your support preferably.

**The Vice-Chair:** Thank you. We'll proceed on the vote on Mr Martin's motion, which is that Bill Pr88 be deferred. All those in favour of deferral? Opposed? The motion is defeated.

We'll proceed with the vote on the bill itself. Is it the wish of the committee that we collapse sections 1 to 11? Agreed.

Shall sections 1 to 11 carry? Those in favour? Opposed? It's defeated. It's not carried.

Shall the schedule carry? All those in favour? Opposed? The motion does not carry.

Shall the preamble carry? All those in favour? All those opposed? The motion does not carry.

Shall the title carry? All those in favour? All those opposed? The motion does not carry.

Shall the bill carry?



**Mr Gerretsen:** Can we have a recorded vote on that?

**Ayes**

Gerretsen, Martin.

**Nays**

Hardeman, Ross, Shea, Sheehan, Vankoughnet.

**The Vice-Chair:** The bill does not carry.

Shall I report that the bill be not reported in the House? All those in favour? Opposed? The bill is opposed.

Before we adjourn I would like to thank all the sponsors and applicants and the committee members, and last and certainly not least, all the staff. Thank you very much.

*The committee adjourned at 1143.*











## CONTENTS

Wednesday 17 September 1997

<b>City of Hamilton Act (Licensing Committee), 1997, Bill Pr65, <i>Mrs Ross</i>.....</b>	<b>T-259</b>
Mrs Lillian Ross	
Mr Lorne Farr	
Mr Steve Dembe	
<b>Lansing Co-operative Nursery School Act, 1997, Bill Pr88, <i>Mr Turnbull</i>.....</b>	<b>T-260</b>
Mr David Turnbull	
Mr Aldo Forgione	
Ms Sandra Sasso	

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## Assemblée législative de l'Ontario

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# Official Report of Debates (Hansard)

Wednesday 8 October 1997

# Journal des débats (Hansard)

Mercredi 8 octobre 1997

Standing committee on  
regulations and private bills

Comité permanent des  
règlements et des projets  
de loi privés

Chair: Toby Barrett  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
REGULATIONS AND PRIVATE BILLSCOMITÉ PERMANENT DES RÈGLEMENTS  
ET DES PROJETS DE LOI PRIVÉS

Wednesday 8 October 1997

Mercredi 8 octobre 1997

*The committee met at 1008 in committee room 1.*KOREAN CANADIAN  
CULTURAL ASSOCIATION  
OF METROPOLITAN TORONTO ACT, 1997

Consideration of Bill Pr87, An Act respecting the Korean Canadian Cultural Association of Metropolitan Toronto.

**The Vice-Chair (Mr Marcel Beaubien):** Good morning, everyone. It's after 10, so we might as well bring the meeting to order. The first order of business this morning is Bill Pr87. Mr Brown is the sponsor, so could he and the applicants step forward, please. Mr Brown, if you wish to introduce the applicants or the applicants wish to introduce themselves, we're flexible.

**Mr Jim Brown (Scarborough West):** I'll let them introduce themselves.

**Mr Young Lee:** Good morning, Mr Chairman, committee members, ladies and gentlemen. My name is Young Lee. I'm a vice-president of the Korean Canadian Cultural Association of Metropolitan Toronto. To my right is Mr Jun-Kyung Suh, who is the president of the association. I'm very pleased to be here to address the committee regarding our private bill.

The Korean Canadian Cultural Association of Metropolitan Toronto is one of the oldest and the main organization for Korean Canadians in southern Ontario. We represent approximately 60,000 Korean Canadians in the GTA area, and we are a focal point for many of the smaller organizations in the area and serve as a community hub, so to speak.

This bill is really the culmination of an effort for many years to bring forth to the community a substantial community centre representative of the maturity and the growth of the Korean community in general. For many years, we had a smaller community centre at 20 Mobile Drive in the city of North York. A large fund-raising effort was undertaken from the early 1990s, in the middle of a recession, with good support from the community in the middle of bad economic times. With some favourable support from the previous government and also continuing support, I'm happy to say, from this government, we've been able to bring this ambition to fruition.

The community centre is located at 1133 Leslie Street. It was formerly an unused and rather derelict commercial-industrial building, located between Lawrence and Eglin-

ton avenues. We've put in over \$1.5 million worth of renovations and improvements to improve the facility so that it's adequate for our needs. The improvements are still ongoing. The centre involves an auditorium, a large meeting foyer, several office spaces and hopefully in the future other classroom areas and other facilities.

We serve to provide meeting facilities, social activity facilities and office facilities for many of the other smaller organizations which cannot support their activities, and we run all kinds of community events, such as the foundation day event last Friday, which many MPPs were able to attend as well as many local politicians, and Caravan in Metro and other such events.

This bill does have the support of the local authorities. I believe a copy of the resolution from Metro was tabled with the application. I also have with me copies of the resolution from the city of North York, which I could distribute to the committee members, if it pleases. It is a bill which is consistent, and there's horizontal equity with other similar private bills with other community groups, notably the Japanese Canadian Cultural Centre and the Chinese Cultural Centre.

In discussing the bill beforehand with the clerk and the legislative counsel, I understand there are a few minor administrative amendments that will be addressed, and I can address those later. I would just like to take this opportunity to thank Mr Brown for his support; also the office of Mr Dave Johnson and the legislative counsel, Mr Michael Wood; and of course the Clerk's office, which has been of invaluable assistance.

**The Vice-Chair:** Does anyone else wish to make comments? Do we have any other interested party in the audience wishing to address the committee this morning? If not, parliamentary assistant, do you have any comments you wish to make on this bill?

**Mr Ernie Hardeman (Oxford):** Good morning, and thank you for the presentation and explaining the bill so well. As the committee will be aware, it is a bill quite similar to a number of bills that have been put through this committee in recent months as it relates to the municipalities forgoing the property tax on the real estate that is providing a service similar to services the municipality is in the business of providing. They in fact are providing a community service on behalf of the municipality, and it's deemed appropriate for the municipality to look at forgoing the taxes.



First of all, I want to say that it appears that the criteria set out by the ministry that should be reviewed in making application seem to have been entirely met. This application does meet all the criteria that were put forward to address the issue. But I would point out that the ability of a municipality to deal with that tax exists aside from the private bills to do it through a tax grant, which would be exactly the same as forgoing the taxes, and it would save the problem of going through this process.

I would also point out that this would not deal with the education part of the taxation, and I guess that's really the point I wanted to make, to make sure the applicants understood. The bill that received second reading in the Legislature yesterday deals with property taxation as it relates to education, and it will become a provincial responsibility to fund education even though part of the tax going towards that will come from properties, but it will be a mill rate set by the province on the properties. If that bill were to pass in the Legislature, it would no longer be possible for the local school boards to deal with the exemption of education taxes on property.

I just want to make sure the applicants understand that even though the bill is passed today by the committee, that does not carry the proviso that from here on in education taxes would no longer apply to this property, because the Ministry of Education would have the ability to say, "No, we are not prepared to exempt taxes on certain types of property," and then that part of this bill would become null and void. Having said that and having reviewed the whole application, the ministry does not register any objection to it, and we would put it to the committee to make their own decision.

**Mr Lee:** Could I just address that? I'm very wary of bringing up anything to do with Bill 160 today. However, I just wanted to note that my understanding from the draft of Bill 160 is that the discretion given to the school board in relation to their portion of realty taxes will then be exercised from that point on by the Minister of Education, and so it would be up to the Minister of Education then. If that's what the parliamentary assistant was referring to, we understand that clearly.

**The Vice-Chair:** Thank you, Mr Lee. I'll entertain questions and comments from the committee members. I will start with the official opposition.

**Mr David Caplan (Oriole):** We favour this bill, although, further to what the parliamentary assistant added, there is nothing in this bill which grants a tax exemption; it just gives the municipality the ability to do it. So there is considerable further process which needs to go on beyond here. This is just a preliminary step in actually having the tax exemption, and the applicants are well aware of that. But we do favour this bill.

**Mr Derwyn Shea (High Park-Swansea):** This actually is the essential step, not the preliminary step. This is the one that indeed recognizes what the city of North York and Metro have requested on your behalf, both indicating they are prepared to grant exemptions. The parliamentary assistant has given the appropriate caution about the shift in the tax base, and it would be inappropriate to leave any

doubt in your mind that there would likely be automatic exemptions in the educational area. One ought to be very clear about that, I would think. I don't speak for anybody other than myself, but there is a wider part to that. I want to say thank you to Mr Brown and to Mr Johnson for giving you the support that they have. I think that's appropriate.

But I want to register again my request with the ministry that they bring forward at the earliest possible moment at least guidelines for municipalities in Ontario in terms of what seems to be the growing number of tax-exempt properties. I know it's difficult for municipal governments to withstand requests for tax exemption. It's not easy when one lives in a community and is trying to adequately serve and support a number of extremely worthwhile organizations and agencies and institutions such as this one. This one is certainly in the same class as many others. I think as the deputant put it, at least in the horizontal linkages, this is quite similar.

But we need to give some kind of a guideline to municipalities, if nothing else, at least in terms of what percentage of their taxable base they might be capable of forgoing, and that at least should be put into the public arena for some discussion. There are some municipalities that may be under greater pressure than others to deal with that. I've been at pains of raising that for the last several years, and I will still continue to raise it and ask that the parliamentary assistant take that request forward to his ministry, asking for some consideration of a guideline. At least it should be done in concert with the finance ministry, clearly, but I grow a little concerned, certainly from the inner city's point of view, that this continues to go on.

I will support without any question whatsoever the application that's before us today. My plea for the parliamentary assistant is not in any way to prejudice this application; quite the reverse. I'm appreciative of its being brought forward, and I'm pleased we're able to respond as we have.

1020

**Mr Hardeman:** In answer to Mr Shea's comments, I think it partly relates to my discussion about the education portion of the exemption being removed from or the need being removed from these types of bills in the future as the province becomes responsible for education. It will then become more evident that the municipal portion of tax exemption or tax rebate as what might be would become easier to do through the grant system rather than through the bill system.

I think at that point municipalities would not only be able to more clearly define how much of their tax base they were willing to forgo in this method but would also then be in the position to deal with parts of taxes as opposed to total taxation. They would be able to look at their total needs in the community as they relate to reduced taxes for community organizations and give grants on a percentage basis of those taxes as opposed to all or nothing.

I think the new process will lead to a more effective and efficient system as it relates to this matter, but again I



would point out that since that is not yet in place, I would personally recommend that we support this application as we have done numerous others for similar good work.

**The Vice-Chair:** Are the members ready to vote?

**Mr Caplan:** Mr Chair, are there two motions which were placed here?

**The Vice-Chair:** There are two amendments, yes. We will deal with them as we go through the sections. Shall I collapse sections 1 to 5?

**Mr Shea:** We've agreed we can collapse it. Now we'll vote on it, Chair.

**The Vice-Chair:** Yes, exactly. Shall sections 1 to 5 carry? Carried.

Under section 6, we have an amendment. Can someone move the amendment?

**Mr Shea:** I'll move it.

**The Vice-Chair:** Moved by Mr Shea. All in favour of the amendment?

**Mr Caplan:** I'm just a little bit curious as to the wording of the amendment, why it goes from "the Metro school board" to "a school board." Wouldn't "the Toronto district school board" be much more appropriate in line with what has already passed through the Ministry of Education in Bill 104? Perhaps the parliamentary assistant can tell me why the wording is like this.

**Mr Hardeman:** I stand to be corrected, but I believe the actual naming of the school boards is in Bill 160, yet to be done by regulation. We have used the terms, but the official titles of the new school boards are still in the broader context as we sit here today. I think that's why it relates to the other school board as opposed to actually naming what the new school board will be.

**Mr Shea:** It would be inappropriate to name at this point in time. It would be presumptuous to anticipate any decision by Parliament.

**Mr Hardeman:** I believe Bill 160 gives the minister power by regulation to actually name the new school boards. I think it would be presumptuous to put that new name in this legislation.

**The Vice-Chair:** All those in favour of the amended section 6?

**Mr Hardeman:** Mr Chair, could someone read the resolution into the record?

**Mr Shea:** I would be pleased to move that subsection 6(2) of the bill be amended by striking out "the Metro school board" in the second and third lines and substituting "a school board."

**The Vice-Chair:** Mr Shea, I think you said, "the second and third lines." Apparently it's the third and fourth lines.

**Mr Shea:** I have taken my lead from the clerk for guidance in the wording of that motion. If it is in error, I will re-read it. According to legal counsel's advice, what should the appropriate lines be?

**The Vice-Chair:** Apparently the proper lines are the third and fourth lines. Is that correct?

**Clerk of the Committee (Mr Tom Prins):** That's correct.

**Mr Shea:** Is the staff now convinced that is the adequate wording? Do they wish more time to confer on that? Then I will re-read the motion for the purpose of Hansard.

I move that subsection 6(2) of the bill be amended by striking out "the Metro school board" in the third and fourth lines and substituting "a school board."

**The Vice-Chair:** All those in favour of the amended motion? Carried.

Shall section 6, as amended, carry? Carried.

Shall section 7 carry? Carried.

Apparently we have an amendment on section 8. Could we have someone move the amendment on section 8?

**Mr Gary L. Leadston (Kitchener-Wilmot):** I'm prepared to move it. Do you wish me to read it?

**The Vice-Chair:** You certainly may.

**Mr Leadston:** I move that the bill be amended by adding the following section:

"Repeal

"8.1 The Korean Canadian Cultural Association Act, 1993 is repealed."

**The Vice-Chair:** I just found something very interesting. Apparently the amendment on section 8.1 is out of order because it amends an act not already opened up in the bill. We need unanimous consent to discuss this particular amendment. Could you please explain it.

**Mr Michael Wood:** I wonder if I could provide an explanation as to why this amendment is necessary. We have discovered that the Korean Canadian Cultural Association used to own another property, for which there was an act passed in 1993 granting a tax exemption, but the association apparently no longer owns that property. It would be appropriate, since that act no longer has any effect, to repeal it and make sure that it is no longer on the books. It does not change the legal effect of that act.

**Mr Leadston:** What's the difficulty?

**The Vice-Chair:** Don't ask me. That was just sprung on me.

**Mr Hardeman:** If I could, to legal counsel, I have some concerns. If the previous bill was for the cultural centre and it no longer applies because they no longer own the property, why does it not just become a waste piece of paper? Why does it need to be repealed at all?

**Mr Wood:** The act remains on the books. It's true it has no legal effect, but it doesn't disappear unless it is repealed.

**Mr Hardeman:** I'm at a loss as to why we're trying to cloud this bill with an amendment that would seem not to be in order when the previous bill and this bill both apply to giving the municipality an authority that they may or may not wish to exercise. If at this point in time they no longer wish to exercise the authority they received in the previous bill, I don't know why it would become important to any of us or any of the participants to take that bill out of existence. It would seem that it would die its own natural death, never to be used again, but still would be somewhere in the records.

My colleague across the floor here or on the side of the room in charge of the Red Tape Review Commission may have further words to say, that he would like it removed



from the records, but I would see absolutely no reason to repeal a bill that has no natural effect at the present time at all, nor would it have any effect in the future unless somebody was prepared to create the same situation where the Korean cultural centre owned the property again and the city wished to exercise its power to go through the same process again. I just don't see the need for this amendment.

**Mr Frank Sheehan (Lincoln):** If I understand it correctly, this bill will become a nullity and it is just going to be sitting somewhere on the records, and when we go to that great big reckoner after life, it will still be there doing nothing. All I want to do is tidy up the books and expunge it from the records. It seems like a good idea. It's just one less piece of paper to keep track of or report on. Did I understand that correctly that's all you're doing?

**Mr Wood:** That is correct.

**Mr Sheehan:** It only costs us two lines, Ernie, and it's done.

**Mr Wood:** I could point out as well that in the 1993 act, the act applies "so long as the land is owned, occupied and used solely for the purposes of the association." Well, the association has sold the land, so the 1993 act will no longer have any effect and could no longer have an effect in the future.

**Mr Sheehan:** Humour us.

**Mr Hardeman:** I've no objection to humouring Mr Sheehan and giving unanimous consent to have it done. I would just point out, from the point of view of saving paper and not having to chop down another tree, that the fact that the Korean cultural centre no longer owns the property makes that bill totally null and void. All we would be doing with this amendment is adding another piece of paper to the pile to say, "This bill is no longer in effect." I am sure the record will show 100 years from now that the bill at one time was passed and was taken out of effect and it will just include another piece of paper. I'm not sure it's really as important as is being put forward.

**Mr Sheehan:** Always a pleasure to split a hair with you, Mr Hardeman.

**The Vice-Chair:** Any further discussion? If not, are the members ready to vote?

We need unanimous consent to introduce section 8.1. Do we have that? Agreed.

Shall section 8.1 carry? Carried.

Shall section 8 carry? Carried.

Shall section 9 carry? Carried.

Shall section 10 carry? Carried.

Shall the schedule carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill, as amended, carry? Carried.

Shall I report the bill to the House? Yes.

At this point in time, I would like to thank Mr Brown and the representative from the Korean association for their presentation. Thank you for coming here today.

At this time we will take a five-minute recess because Mr Colle, the sponsor of the next bill, is not here at the moment.

*Interjection.*

**The Vice-Chair:** The other one has been withdrawn temporarily.

*The committee recessed from 1034 to 1040.*

## CITY OF YORK ACT, 1997

Consideration of Bill Pr90, An Act respecting the City of York.

**The Vice-Chair:** If I could have your attention, we will bring the meeting back to order. The next order of business is Bill Pr90. In the absence of Mr Colle, Mr Derwyn Shea has agreed to be the sponsor of the bill. Could you introduce the applicant or let the applicant introduce himself, Mr Shea.

**Mr Shea:** I regret that the member is not able to be with us, but I am pleased to take carriage of this bill at this point without any prejudice to questions I may ask. I present to the committee George Bartlett, city solicitor for the city of York, who will answer any questions the committee may have. I will turn the presentation over to him.

**Mr George Bartlett:** Thank you, Mr Shea. This is a bill being requested by the city of York, and the purpose of the bill is very focused and very specific. The purpose is to provide the city with an additional means to deal with premises that become a problem in certain sectors of the community, primarily residential communities, when they continue to operate and sell liquor after the hours provided for in the Liquor Licence Act and continue to attract customers and have people leaving during those hours and creating a nuisance to the residential communities.

I'm not sure how many of you know the city of York, but in our areas, commercial streets almost invariably abut directly on to residential streets, so we don't have commercial areas that are separate and apart from residential areas. Similarly, our industrial areas by and large are in very close proximity to residential areas. So when an operation continues to operate after the hours provided by the Liquor Licence Act or per conditions attached to a special-occasion permit or a licence, it does create a significant problem in our municipality.

It's a situation that's difficult for the police to address because in many cases these are situations where there are large numbers of people on a premise and the police don't have sufficient forces on duty at particular hours of the night where they are able to go in safely into these premises. So what we're looking for is a means by which a law requiring the stopping of the sale and the discontinuation of the activity can be enforced without the need for enforcement staff to actually enter into the premise, where there could be large numbers of people and where their presence could create a volatile and dangerous situation. This legislation would provide that means.

The legislation would provide that when there is a problem situation, the city could pass a bylaw requiring that licensed premises or premises operating under special



occasion permits clear the premise and vacate it of customers at a certain hour in the night and remain clear of patrons during a very limited period of time. Normally it would amount to a couple of hours; clearly no more than three hours. When a bylaw to that effect was enforced, our staff or the police would be able to go to the premise, and just the fact that there is obvious activity going on in it — customers, noise, any other evidence that the commercial operation is continuing to operate — would be sufficient evidence for a charge to be laid. We feel that with this additional tool we will be able to get a handle on a problem that has become a significant one in our municipality.

**The Vice-Chair:** Thank you, Mr Bartlett. Do we have any interested party wishing to make comments on this particular bill? If not, I would ask the parliamentary assistant, Mr Hardeman, to make comments on behalf of the government.

**Mr Hardeman:** Good morning and thank you for your presentation. There has been, at least according to my notes, considerable debate between government ministries and the city as it relates to the most appropriate way of dealing with the problem that exists, to be able to enforce the establishments in — what shall we say? — the wee hours of the morning. My understanding is that the conclusions reached in this bill were the ones most supportable by all parties to deal with the problem. On behalf of the ministry and the government, we will not be raising any objections to the passing of the bill.

I would just ask some questions that relate not to the government's position, which I've just stated in a very brief way, but I have some personal concerns on the bill as to why and how one decides that there is a different approach needed for different types of businesses. I think you said when you started your speech that we want to be able to deal with problem establishments. Can one write a law and enforce it in a bylaw, and depict certain people or certain businesses for it to apply to, and still consider it to be fair to everyone?

**Mr Bartlett:** The municipalities have powers that are often applied so that they apply to different situations differently. I recognize that this is giving an additional power to a municipality that will enable them to focus in on areas where there are problems and to deal with that area specifically, and not deal with others that aren't creating problems. That is just the nature of the effective tool we're looking at, but laws very often apply differently.

I guess zoning is the clearest example, whereby we pass zoning bylaws all the time that put different rules on different properties than apply generally throughout the municipality. That's been recognized and those types of laws have been in effect for a very long period of time, and it is accepted as reasonable that a municipality has the power to differentiate in that way. In certain cases, the Municipal Act provisions also authorize municipalities to impose different hours of operations on different premises.

This is a situation that, yes, is going to give council power to zero in on a particular area that is a problem and is going to enable council to pass a bylaw that will affect

the ability of people in that area to operate, but because those people are our taxpayers and because they are an important section of our taxpayers, I think we have to rely on the fact that council will exercise that power sparingly, and when the issue has been addressed that has created the need for the municipal action, then the bylaws will be repealed. I think it's the essence of democracy that, yes, we will take action when required, but when the issue has been addressed, the legislation would then be repealed.

**Mr Hardeman:** Going further on the same issue, I think we've all accepted that governments, and municipal governments in particular in these types of cases, have to deal with the protection of society in general and the orderly conduct of business in their communities. But when you have the ability to enforce a type of law on individuals based on previous occurrences of some type and you apply that differently in different areas of your municipality, I suppose you could define it and make that area very small and it actually could apply to a business as opposed to a number of businesses.

We could have — and I just put it to you for your comment, for your legal opinion on it, I suppose — an establishment that has had some problems the last two Saturday nights with some disturbances after the closing of the bar. That is taken forward and dealt with by law in an appropriate manner. They get charged, or whatever it is, for the disturbances and for not having sufficient enforcement on the premises to control the patrons.

All of a sudden the city passes a bylaw that says, "Notwithstanding you being a conscientious taxpayer and a good person in our community, your premises must be closed at 3 o'clock when everyone else in the city can stay open." Why would you, as that individual business owner, not object that all of a sudden you're being penalized beyond what was penalized before? You've already dealt with the disturbances of the previous nights. Now we have the ability to inflict this on individual businesses, different than others. Do you not see that as a problem?

1050

**Mr Bartlett:** I see it as a concern. I wouldn't say I'd call it a problem. I think you have to rely to some extent on council and the fact that it will exercise its authority with responsibility and with due regard to the rights of the affected parties.

What I would see normally happening in a case like this where there's a problem property that has been identified is that the problem property operator/owner would be given notice that council has concerns about what's happening on the property, that we've received numerous complaints from residents in the area that this premise is being operated in a manner that is creating a nuisance and causing problems in the wee hours of the morning. The person would be invited into committee in council to give input before council acts to pass such a bylaw. After hearing from the individual, council may decide that the action the person proposed to take is adequate to address the problem and may defer taking action until after the person has had an opportunity to correct the situation. But if the action of the operator is such that it doesn't address



the problem and these problems are continuing, then at that point in time council would act by passing the bylaw, which hopefully would be kept in effect just as long as necessary to effect a solution to the problem.

Yes, if a council were exercising its power irresponsibly, if it were not having due regard for the rights of a sector of its community and disregarding them, then council could be criticized for that and could be criticized for abusing this power. But that's the nature of lots of powers that are given to a municipality. If the council chooses to abuse it, that's inappropriate, but one hopes and relies on the fact that councils by and large act responsibly and they are accountable to the public for the actions they take.

**The Vice-Chair:** I will entertain questions from the government side. We'll start with Mr Shea.

**Mr Hardeman:** If I could, I'd like one comment, Mr Chairman, prior to the questioning. We do have some ministry staff here from the Ministry of the Solicitor General and the liquor licensing board, if there are specific questions that the committee members might have on the issue. The appropriate members here would be prepared to answer questions for the committee.

**Mr Shea:** I'm deeply disappointed that Mr Colle isn't here to answer questions that might appropriately be put to an elected official. I don't want to put the city of York solicitor in an awkward spot trying to give political responses, but I have no other recourse, Chairman, so let me ask a few questions as I go through this request.

Your presentation, George, has been very circumspect. You have chosen your words very carefully and you have I think attempted to present discreetly a concern of your municipality. There is an issue that seems to be behind your words, and it has been masked in an appropriate and sensitive way, but I think it needs to be uncovered at least sufficiently for this committee to understand the depth of concern that brings your council to come to this assembly asking for what some might argue is extraordinary authority.

Can you be a little more precise in giving an example? You have left me, for example, with the impression that there are circumstances in which the police may not wish to be engaged even if lawbreaking is occurring. They may wish not to be engaged or be unable to be engaged. I think you suggested that they may not have sufficient human resources available at the time, given the hours of the day when certain infractions of the law may be occurring. For that reason, the council is requesting this extraordinary authority so that a drive-by ticket, in essence, could be issued. Do I misunderstand what you're asking?

**Mr Bartlett:** No, I think that's an accurate summary of it.

**Mr Shea:** So given the lack of human resources, instead of having to go into the precise circumstance and interdict, there at least would be the opportunity for the bylaw to be exercised at some distance with what seems to be at least arguable in court, some evidence that, "I saw people, I heard people," and that would be sufficient to at least take it to court.

**Mr Bartlett:** That's correct.

**Mr Shea:** Is it the intention of the municipality to apply this bylaw site-specifically or generically?

**Mr Bartlett:** The legislation has flexibility in that regard, but I definitely suspect that my council would not intend to apply a bylaw right across the city. I think the intent is that where there are problems, where operations continue on past the time required in other legislation, the legislation would be drafted to deal with those situations. Whether it's by a block or whether it's more narrowly drafted I think is still open, but —

**Mr Shea:** So it could be site-specific.

**Mr Bartlett:** Yes. The law is flexible. It could apply to an area of the municipality. It need not apply to the whole municipality.

**Mr Shea:** I ask you now as a lawyer with considerable experience, do you believe that such a law would at the very least withstand a charter challenge?

**Mr Bartlett:** To the same extent that zoning bylaws withstand them, and other bylaws that draw distinctions between properties.

**Mr Shea:** Are there zoning peculiarities in the city of York that I may be unfamiliar with in terms of within the same classification being site-specific?

**Mr Bartlett:** Yes, we have numerous site-specific bylaws applying to individual properties. I think that's not unique to the city of York.

**Mr Shea:** No, but I was precise in my questioning in terms of categories. There's category X, which may operate freely within the city of York within the given zoning parameters, but where in fact the city of York is given specific authority to say, "Notwithstanding that generic, this particular site here will be treated differently than all the others within that category." Is there such an example that you could give the committee?

**Mr Bartlett:** I'm sorry. I guess I'm missing the question. We have general zones in our zoning bylaw, and then overlaid on top of that we have site-specific provisions which deal with individual properties. So despite the fact that a property may fall into a commercial zone, on top of that we do impose other requirements by site-specific zoning that may be unique to that property and may not be the same as other similar operations elsewhere in the city.

**Mr Shea:** I think we are talking at cross purposes here, so I won't belabour it right now. In this regard, do you have any response from Chief Boothby?

**Mr Bartlett:** No specific response.

**Mr Shea:** Have you asked?

**Mr Bartlett:** We have a committee, a couple of committees in fact, one dealing with one half of the municipality, one dealing with the other half, where we have all the enforcement staff. They get together and look at and address these what we might call problem properties. They would be familiar with the fact that this legislation is going forward. How far up the chain of command that information has gone, I can't speak to that.

1100

**Mr Shea:** I gather you've had meetings with the LLBO.



**Mr Bartlett:** Yes.

**Mr Shea:** There has been no objection raised by LLBO?

**Mr Bartlett:** There were concerns initially in terms of the way it was worded, but we've incorporated changes to satisfy their concerns.

**Mr Shea:** Can you indicate for the committee what those changes were?

**Mr Bartlett:** As I recall, primarily in subsection 2(2), tying it into the fact that we can't by our bylaw interfere with, in effect, the hours of operation that are authorized by the Liquor Licence Act or by a special-occasion permit. So our closing time has to be after the hour by which a premise has to have its tables cleared of liquor under the Liquor Licence Act.

**Mr Shea:** To your knowledge, are there other municipalities that have this enabling legislation?

**Mr Bartlett:** No.

**Mr Shea:** You obviously have been meeting with your counterparts in other municipalities as you prepare for amalgamation. What is your understanding of the status of this bylaw if it were approved, in terms of the new amalgamated city?

**Mr Bartlett:** If this legislation is approved, this would be a piece of legislation that would continue into the amalgamated city and that council, but it would only apply to the portion of the city that is presently the city of York. The new council could pass a bylaw under the authority of this legislation applicable to the city of York or to a portion of the present city of York.

**Mr Shea:** The new city of Toronto council could not take it upon itself to expand the existing boundaries of the city of York. Is that correct?

**Mr Bartlett:** That's correct. It would only apply, just like our current bylaws will continue into the new city, in the territory that is presently the city of York.

**Mr Shea:** I have no other questions. Thank you.

**The Vice-Chair:** I will go to the official opposition.

**Mr Caplan:** It seems that the wording in this legislation — the other committee members were very careful, but my understanding is that this deals with the problem associated with so-called booze cans and their operation in the city and the difficulty that has for local residents, as well as for the city as far as enforcement, and really inappropriate and contrary to the purpose of special-occasion permits and an effective means of enforcement.

My question to the solicitor: In your opinion, does this act have the necessary means for the city to enforce and have enforcement personnel to address the problem they're concerned with, the inappropriate use and consumption of alcohol beyond the hours that would normally be prescribed?

**Mr Bartlett:** Yes, it does. It can be enforced on its wording by an inspector of the municipality. It can also be enforced by the police, and there are provisions where necessary or where required to gain access to a premise, to get the necessary evidence. There are provisions for warrants.

**Mr Caplan:** So this legislation goes a considerable distance to addressing a question of community standard in having an effective enforcement mechanism. Given that, we'll be supporting the act.

**The Vice-Chair:** Any other questions?

**Mr Shea:** I don't have a question, Mr Chairman, but I want to make a comment. The parliamentary assistant would like to get your attention first, so I will be happy to yield for a moment.

**Mr Hardeman:** Mr Chair, I have another question. It relates to the broader issue of the bill. I think you, sir, explained it very well: that it is to deal with a problem that exists in parts of a municipality and this will be a more effective way of dealing with some of these problems that presently exist. You made it quite clear that you feel it's important that the city can designate the area where the problem is, as opposed to applying it across the municipality, that they need the authority to be able to enforce a problem that exists.

My question would be: Private bills are to give a city authority they would need different from others in the province. Looking at the problem in York, and I have no reason to assume it's worse in York than it is in downtown Toronto or in downtown Salford — it may be; we don't have any of these establishments in downtown Salford — would it not be fair to suggest that the authority to do that, if it's appropriate, should be applied to all municipal governments, as opposed to having an authority in York different from all the other municipalities in the province? Is there anything unique about York that would indicate they should have special legislation that would give them powers beyond the powers of other municipalities to deal with a problem that would appear to be possible in any municipality?

Having said that, if it's something that should be applied across the province, should it not be done in just a regular government bill to give all municipal government this authority, if it were appropriate, as opposed to giving it to just one city?

**Mr Bartlett:** I think your summary of the theory behind private legislation matches my understanding in part. By and large, private legislation is to address situations that are more pressing, perhaps, in one municipality than in another and where for that reason it's appropriate to address it on a narrow basis rather than waiting for province-wide legislation.

However, my experience with private legislation — I've seen many pieces of it and I have applied for a few of my own — is that as problems develop, when a municipality finds that the general legislation isn't adequate to address the problem, that municipality will come forward and seek private legislation.

In many cases you will find that other municipalities follow suit a year or two or three later and seek similar legislation. When the need as expressed by these private pieces of legislation is widespread enough and there's perhaps some experience with the legislation to see how it's working and how effective it is to address a problem,



at that point the province may step in and make the legislation province-wide.

I look at the city of Toronto, for instance, that has many pieces of private legislation they act under where there are now similar pieces of public legislation that are used by other municipalities. Property standards is a case in point. While in theory the intent may be that private legislation is to be used where there is a local problem that's not widespread, the fact is that it's also used as a means to experiment with solutions to problems and experiment on a smaller scale than province-wide. When the test proves that the legislation is effective, at that point in time my experience is that the province then may move to include it in general legislation.

I just say on this bill that the authority under the legislation is very narrow. It's simply to require that a premise be closed to patrons for a very short period of time, anywhere from one to three hours in the middle of the night. With all due respect, it's not like we're closing down operations and closing down businesses. It's a very narrow authority that this legislation will authorize us to apply, if enacted.

1110

**Mr Hardeman:** On that, I want to make sure I'm perfectly clear. We are talking about giving the ability to a municipality to close down a premise from a certain period of time during the night, but that applies only if they have a licence.

**Mr Bartlett:** A licence, or they operate under special-occasion permits.

**Mr Hardeman:** I would think when a premise has a licence that operates till 2 o'clock in the morning, at that point in time it is no longer licensed until it has the legal right to open again under that licence; that once they close the doors to the cabinet where the alcohol is contained, they can no longer serve it and they obey the rules and they do not serve it. At that point, are they any different than anyone else who doesn't serve alcohol at any time?

**Mr Bartlett:** You're correct. If they close the cabinet and stop selling, then they're in the same position as any other premise.

**Mr Hardeman:** But the city would have the power to apply a different law to that establishment than it does to any other establishment that doesn't have a licence the rest of the day?

**Mr Bartlett:** Yes, the intent being that when a premise with a licence continues to operate and sell liquor and has people in those circumstances creating a problem, we would have the authority under this legislation to apply special rules to them that aren't applicable to non-licensed restaurants.

**Mr Hardeman:** Let me make sure I understand. A premise that is serving alcohol beyond their licensed hour is restricted now; that's against the law now. We don't need to change anything to be able to enforce that part. What you're suggesting is that it's going to be the vacating of the property — a totally different action is going to be required of an establishment that was licensed previously and the licence is now closed from 2 o'clock

until noon the next day, and during the time they're not licensed, they cannot do what other businesses can do with their premises.

**Mr Bartlett:** That's correct. This is focusing in on a specific group of premises that have in some instances created a problem for the municipality. I don't think anyone would say that this will address the entire problem in the city of York, but this provides a tool which will be able to address, hopefully, a significant part of the problem. When we are able to design a tool that will deal with the other part effectively, we will. But at this point in time this is the only tool we've been able to come up with.

**Mr Hardeman:** I just want to say, Mr Chairman, I will be supporting the legislation but I have some concerns as to the narrowness of the implication and that it's not necessarily fair to everyone. But I agree that maybe for the greater good it's an appropriate piece of legislation.

**Mr Shea:** I think Mr Sheenan also wants to also ask a question for a moment, so if you'll let me defer —

**The Vice-Chair:** Gee, you're awfully Christian-like today. You're passing the buck on to everybody else.

**Mr Sheehan:** Is there no law right now, like I think Mr Hardeman was saying, that under the licensing of the LLBO or LCBO or whatever the heck it is we're talking about there's nothing that precludes occupancy as long as they stop serving alcohol at the time specified on the licence, then the occupancy of the building can continue after that for any length of time?

**Mr Bartlett:** Under general law, yes. There is provision in the Municipal Act whereby a licensing authority like Metropolitan Licensing Commission can impose or restrict hours of operation. I believe that extends beyond simply hours of sale. It can restrict the hours of operation of the premises, but to do it on a premise that's creating a problem, there it can only be exercised after a lengthy process involving a show-cause hearing.

The difficulty there that we're trying to counter with this legislation is the one mentioned earlier. To take action there, the enforcement staff, the police, have to get into the premise. When you have a large number of people in a premise, for the police to do a raid, first of all they won't go in unless they are sure they can go in in safety, which means they have to go in with a fairly sizeable force, which for practical reasons means that in most cases they are unwilling to go in. So the operation continues with no effective enforcement.

**Mr Sheehan:** Effectively what can happen is that I have this premise and I'm licensed to sell alcohol till 2 o'clock, but there's no effective way of getting at me and say, "Frank, you have to have your people out of there." They can stay there on the premises all night if they choose. Is that what you're saying?

**Mr Bartlett:** That's correct. Unless they've been convicted of something and there's a show-cause hearing and then their hours are restricted.

**Mr Sheehan:** Then you could get in —

**Mr Bartlett:** Then you have to get in two times: first to get the evidence to prove that they're selling liquor when prohibited, and second, after the condition has been



imposed, you have to get in again to establish that they're again selling.

**Mr Sheehan:** Can we ask the LLBO or LCBO: "Can you comment on this? Is there nothing in your book of laws or regulations that can deal with this issue?"

**Mr Hardeman:** Tom Bolton is the director of inspection for the Liquor Licence Board of Ontario and may be able to answer your question.

**The Vice-Chair:** Could you please state your name for the record.

**Mr Tom Bolton:** Tom Bolton. The Liquor Licence Act along with the regulations are very specific as far as the time for the commencement and the cessation of the sale and service of liquor. Once the prescribed hour, which is 2 o'clock for licensed premises and 1 o'clock for special-occasion permits, is breached, then the board or the act makes no provision for what happens with the premises subsequent to the legal sale other than that they have to have all signs of sale and service cleared by 45 minutes after the hour of cessation.

**Mr Leadston:** I'm prepared to support this bill, but just a couple of comments. Is it possible, Mr Bartlett and the licensing individuals, for you to provide me and the other members of the committee with an update, perhaps in six months or sooner, as to the effectiveness of this piece of legislation. My sense is that the problem has probably been created by your zoning laws, in having this type of establishment in such close proximity to a residential community.

I'm sure Mr Colle in the municipality and the councillors could have orchestrated a very large group of residents appearing here this morning to talk about some of the experiences they've encountered. My sense is that I'd like to see an analysis of the bill after it's been in effect for a period of time to see what kind of effect it has had — I'm sure other municipalities are encountering the same types of problems within a residential community in close proximity to some of these establishments — to see how it would impact down the road with other municipalities.

**Mr Bartlett:** The only concern I'd express with that is the six-month time period. With the election, with the new city of Toronto council it may some months before — six months.

**Mr Leadston:** Within in the next year, then.

**Mr Bartlett:** Sure.

**Mr Leadston:** I'd appreciate having an update.

**Mr Bartlett:** That would be fine. I can undertake to provide that.

1120

**The Vice-Chair:** Any further questions.

**Mr Shea:** I was not passing the buck, Chairman, I was just simply deferring to my colleagues to allow them ask some questions as well. Now I will hit you with the buck and carry on with a series of questions. My question goes to Mr Bolton. You're with the Liquor Licence Board of Ontario?

**Mr Bolton:** Yes, sir.

**Mr Shea:** In Bill 26 there were some new provisions to change the Liquor Licence Act, were there not?

**Mr Bolton:** Could you give me more specifics?

**Mr Shea:** Sure, I could be very specific. There was contained in that bill an element of what I refer to as "salt the earth." Here's what it does. Up until now, municipalities and neighbourhoods that are just absolutely outraged by individuals and organizations that have — let me be very blunt — trashed neighbourhoods have been the minority, but they have created serious problems for the liquor licensing authority and for the neighbourhoods because of the behaviour of patrons. It would be very difficult to deal with that in terms of getting at the liquor licence. The fact is that even if a process has started to show cause, you may find that even before you get to the conclusion of the hearings, the licence has suddenly transferred. It goes a number of different ways and it's very hard to get your hand on who is doing what and how to get control of that.

Bill 26 simply made sure that everybody understood that the Liquor Licence Board of Ontario now had authority to not only deal with the individual who is named on the licence but also had the authority to salt the ground in where that licence was given for up to two years. They could say, "No licence at that location may be given for that period of time." Are you familiar with that provision?

**Mr Bolton:** Yes, sir.

**Mr Shea:** That's a fairly draconian piece of legislation. At least it gives some measure of protection to neighbourhoods that have been battered and bruised. Has it been employed at all in the last year, to your knowledge?

**Mr Bolton:** I stand to be corrected, but as far as I know, that particular section of the bill was not proclaimed.

**Mr Shea:** I'd be really interested if that's the case. Is that your knowledge?

**Mr Bolton:** Again, sir, I don't have the piece of legislation in front of me. We have not, to my knowledge, applied that particular section.

**Mr Shea:** Oh, this is interesting.

**The Vice-Chair:** Mr Hardeman, can you enlighten the committee?

**Mr Hardeman:** No, I'm sure I cannot enlighten you. I'm not aware of whether it was or wasn't. My question was whether it was even part of Bill 26. I believe it was a different bill that we were referring to.

**Mr Bolton:** I'm familiar with the section that Mr Shea is referring to.

**Mr Hardeman:** I'm not aware. I don't know whether staff has any, but we will get that for you, Mr Shea, if it'll be of some help.

**Mr Shea:** It did not go through your ministry, I say to the parliamentary assistant, but it was part of the omnibus.

**Mr Hardeman:** Okay. Then it just goes to show I was paying particular attention to that part which referred to —

**Mr Shea:** I know exactly what you were paying attention to, Mr Hardeman, as was I, but I can tell you on the other hand there were other sections.

Having said that, notwithstanding whatever act or whatever bill it was in, the fact is that legislation was, to my knowledge, proclaimed. I am a little astonished by the



reply that it may not yet have been either, to your knowledge, proclaimed or it has certainly not been enforced. That troubles me because there is some remarkable support there for neighbourhoods that are facing this.

Let me pass by that for a moment and respond to this bill that's before us today. I can only assume from my own municipal background that this is a desperate plea by desperate people who are facing some extraordinary circumstances and I understand that. I understand the delicateness with which the solicitor comes forward and approaches this. I am not convinced that he is coming forward enthusiastically shouting and screaming. He is representing his municipality openly and fairly and I think with a degree of due diligence, but I suspect that he, as well as I, understands that this may be a piece of spaghetti waving in the wind if it gets into a whole range of constitutional challenges and so forth.

Still and all, I will support it with a number of reservations only because at least if it's something more to offer to a community that is feeling besieged by the kinds of booze can operators who we know operate not just in your municipality but in other municipalities, then maybe here's a chance to see this legislation working. If it doesn't work, then I think it needs to be visited very quickly, because it has parts to it that trouble me. For example, although you and I have spoken at cross purposes on this, I still think it is too site-specific and that troubles me. It is not just analogous to the zoning situation. I think it's much more than that.

I want you to understand that when I give my support to this, it is because I am very supportive of neighbourhoods, I am very supportive of the kinds of turmoil created by the bad operators. They are in the vast minority, but they make just unconscionable demands upon the licensing authority in terms of enforcement, upon the police department for enforcement. They drive neighbourhoods to total disruption and despair.

I know it's awfully difficult to walk that fine constitutional to respect individual rights and corporate rights and at the same time deal with bad operators, but for that reason I wish you would find that information about "salt the earth," because your response to my questioning, I say now to the liquor licensing authority, troubles me.

I am equally concerned about this potential for drive-by ticketing and everything that may involve. I don't say that lightly. I know exactly what you mean. I am the last person who would want to place our enforcement officers in harm's way, and by going into large crowds — we understand what you're saying, yet I think the court will have some questions about evidence and procedures and so forth that I think you as a lawyer would understand far better than I.

In terms of the intent of the bill, I understand it and I support it. I wish we had had some comments from the police or evidence that there had been other discussions with law enforcement as well as with the LLBO, but to this degree I will give my support with those reservations. I think Mr Leadston raised a good point, that if somehow it were to be revisited a year or so from now, we might

take a look at it and see if there's a way to refine it, improve it or repeal it, whatever. I think that would be a worthwhile enterprise.

I will support the neighbourhoods in the city of York, but this is not a bill that I approve lightly.

**Mr Hardeman:** I would suggest to the committee, on the issue of monitoring the success or lack thereof of this bill, that the committee must remember that we are either going to approve or not approve of giving the city certain authorities. This committee was not set up to be a monitor of the success of that. It would have to be done based on notifying the individual members as to what is happening within the city of York. The committee's opportunity to discuss this matter further would be if another municipality came forward requesting similar authorities. I suppose it would be appropriate then to ask whether there were other examples that have been used in the past and whether they were successful or not successful. It would be very difficult for this committee to monitor the success or the failure of this individual piece of legislation.

If I could also ask, and I think it relates to Mr Shea's question about Bill 26 and the reference to the licensing: There was a lot of discussion on the section of the bill I was particularly involved with, the municipality powers of licensing. I just wanted to ask whether that section was your reference as it relates to liquor licensing. I'm not aware of anything in Bill 26 that actually deals with the liquor licensing board and the licensing of liquor establishments. Although municipalities were given increased powers to monitor and license all business establishments, it was not related directly to liquor licensing. In fact, it would prohibit them from the serving of alcohol. They would be able to license other functions in that same establishment but not license the alcohol.

**Mr Shea:** The parliamentary assistant is helping me remember — it is now coming back and I don't think it was Bill 26. There's another bill and I can't remember the bill right now and I apologize for that. In the bill I can recall the precise wording but I just can't dredge it up for the moment for the committee. I recall it being there. You can be sure I'll know which bill it is within about 20 minutes.

**Mr Hardeman:** I would like to assist the member and say he can find that out even before the 20 minutes are up. The item I referred to was the general licensing powers in Bill 26 for municipalities, and the item that the member is referring to is from the Liquor Licence Act, which was put forward after Bill 26 to deal with that issue.

**Mr Shea:** I'm not even convinced of that. I think there was another one as well contained in another act, but wherever it is, I know it exists.

**Mr Hardeman:** I think that would explain the issue, as the answer to your question that it had not yet been proclaimed. I don't believe there were sections of 26 that were not proclaimed, but it may very well be so in other acts, that there are sections that have not yet been proclaimed.

**Mr Leadston:** I was not suggesting to the parliamentary assistant that this committee act as a monitoring board. I had asked on my behalf personally for an update with respect to this bill because I can see it has applications in other municipalities, particularly in areas within my region. I'm rather interested in knowing what effect it has had within the residential community and the effect it has had on the businesses and comments from the law enforcement agencies that are involved. So it's not a monitoring situation that I'm asking for on behalf of this committee; it was a personal request. I assume the other members of the committee, if they're interested in the interests of their communities, would request the same information.

**The Vice-Chair:** Thank you for clarifying your point, Mr Leadston. Any further comments? If not, are the members ready to vote on Bill Pr90?

Shall I collapse sections 1 to 8? Yes. Shall sections 1 to 8 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Thank you.

I would like to thank the applicants and the sponsor, especially Mr Shea for pitching in for Mr Colle today, and last but not least all the staff. Thank you very much.

*The committee adjourned at 1132.*



## CONTENTS

Wednesday 8 October 1997

<b>Korean Canadian Cultural Association of</b>	
<b>Metropolitan Toronto Act, 1997, Bill Pr87, Mr Jim Brown .....</b>	<b>T-273</b>
Mr Jim Brown	
Mr Young Lee	
<b>City of York Act, 1997, Bill Pr90, Mr Colle.....</b>	<b>T-276</b>
Mr Derwyn Shea	
Mr George Bartlett	

### STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

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Mr Tony Martin (Sault Ste Marie ND)

Mr Tony Ruprecht (Parkdale L)

Mr Derwyn Shea (High Park-Swansea PC)

Mr Frank Sheehan (Lincoln PC)

#### Also taking part / Autres participants et participantes

Mr Tom Bolton, director of inspection,  
Liquor Licence Board of Ontario, MCCR

#### Clerk / Greffier

Mr Tom Prins

#### Staff / Personnel

Ms Susan Klein, Mr Michael Wood, legislative counsel

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## Legislative Assembly of Ontario

First Session, 36<sup>th</sup> Parliament

## Assemblée législative de l'Ontario

Première session, 36<sup>e</sup> législature

# Official Report of Debates (Hansard)

Wednesday 3 December 1997

# Journal des débats (Hansard)

Mercredi 3 décembre 1997

Standing committee on  
regulations and private bills

Comité permanent des  
règlements et des projets  
de loi privés

Chair: Toby Barrett  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
REGULATIONS AND PRIVATE BILLSCOMITÉ PERMANENT DES RÈGLEMENTS  
ET DES PROJETS DE LOI PRIVÉS

Wednesday 3 December 1997

Mercredi 3 décembre 1997

*The committee met at 1010 in committee room 1.*

## ELECTION OF VICE-CHAIR

**The Chair (Mr Toby Barrett):** Good morning, everyone. Welcome to this regular meeting of the standing committee on regulations and private bills. We have two general orders of business, the first one being organization, the second one being Bill Pr91.

With respect to organization, we have a task as a committee of electing a Vice-Chair. Honourable members, may I have names for the election of a Vice-Chair. I wish to receive nominations.

**Mr Ernie Hardeman (Oxford):** Mr Chair, I would like to nominate Mr Boushy, the member for Sarnia.

**The Chair:** Are there any further nominations?

**Mr Gary L. Leadston (Kitchener-Wilmot):** Do we have his platform and his speech?

**Mr Derwyn Shea (High Park-Swansea):** What about Ernie Eves?

**The Chair:** The nominations have to be from committee members. I have a motion that nominations are closed. If there are no further nominations, I declare nominations closed and also declare that MPP Dave Boushy has been elected Vice-Chair. In keeping with tradition, we may ask our new Vice-Chair to begin work immediately.

## APPOINTMENT OF SUBCOMMITTEE

**Mr Dave Boushy (Sarnia):** I move that a subcommittee on committee business be appointed to meet from time to time and, at the call of the Chair or at the request of any member thereof, to consider and report to the committee on the business of the committee; that the presence of all members of the subcommittee is necessary to constitute a meeting and the subcommittee be composed of the following members: Mr Barrett, Mr Caplan, Mr Hardeman and Mr Martin; that any member may designate a substitute member on the subcommittee who is of the same recognized party.

**The Chair:** Is there any discussion on this motion? All those in favour? All those opposed? I declare that motion carried.

I declare that order of business closed and I declare the order of business with respect to organization closed.

LONDON COMMUNITY  
FOUNDATION ACT, 1997

Consideration of Bill Pr91, An Act respecting The London Community Foundation.

**The Chair:** I will ask the sponsors and applicants of Bill Pr91 to approach the witness table. This bill is sponsored by MPP Bob Wood, London South. Mr Wood, I will ask you for some brief opening remarks, and if you could also introduce or have the applicants introduce themselves to the committee.

**Mr Bob Wood (London South):** I am joined this morning by Tammie Ashton, who is the lawyer for the foundation. This is a housekeeping bill to bring the foundation's legislation up to date to currently desired practices. I understand there are no objections from the two applicable ministries, namely, the Attorney General and municipal affairs.

Either Mrs Ashton or I would be pleased to explain the provisions in more detail or to answer any questions. I commend the bill to the committee, and as the foundation is a charity we are asking that the committee remit the application and printing fees. I understand this is a practice that is sometimes done in respect to charitable organizations and we'd ask the committee to consider recommending that to the House.

**The Chair:** Thank you, Mr Wood. Mrs Ashton, do you have any comments to the committee?

**Mrs Tammie Ashton:** I have nothing to add. If anyone has any questions, though, I'd be happy to answer them.

**The Chair:** I see no interested parties to speak to this bill. At this point I would ask the parliamentary assistant, Ernie Hardeman, for any comments on behalf of the government.

**Mr Hardeman:** Thank you very much, Mr Chair. As Mr Wood explained, the bill was circulated to the public trustee and the two ministries and there were some minor changes made at the recommendation of the Attorney General's office. With those changes being made, the government would have no objection and no comment to the bill.

**The Chair:** Thank you, Mr Hardeman. We will throw this out to questions.

**Mrs Marion Boyd (London Centre):** I have a question. I understand that there have been no objections filed with the committee, although there were some inquiries as



to what the purpose of the bill was. Is that correct? Thank you.

**The Chair:** I will go to Mr Boushy.

**Mr Boushy:** I move that the committee recommend that the fees and actual costs of printing at all stages be remitted on Bill Pr91, An Act respecting The London Community Foundation.

**The Chair:** I know there are some other questions. Should I put that motion on hold until we complete questions? Let's put that to a vote, this motion to waive fees.

**Mr Shea:** On a point of order, Mr Chairman: Wouldn't that premise an approval if you waived the fees? Wouldn't it be better to simply wait until any questions may be asked and then deal with it?

**The Chair:** That is what I would prefer to do. Okay, at this point I am limiting it to questions. Mr Shea, did you have a question?

**Mr Shea:** I simply want to pick up on a question raised by Mrs Boyd, and this is a question I would direct to Mr Wood, because I assume that the London Community Foundation is not a new foundation.

**Mr Bob Wood:** No, it was created in the mid-1950s. It was dormant until around 1990 and has become active in the last few years.

**Mr Shea:** So this really is a bill which is enhancing the terms and functions of the board of directors.

**Mr Bob Wood:** Yes, there were some changes, I think, in 1993 or in that time period, and these are further time changes to bring the legislation up to date with current desired practices.

**Mr Shea:** And this is consistent with the wishes of the membership?

**Mr Bob Wood:** I understand that it is, yes.

**Mr Shea:** Can I just point out that Mrs Boyd also is nodding her head, so it gives me great comfort that the members from London are all concurring. That's fine, Chairman. My questions are answered and I am delighted to give support to this bill.

**Mr Frank Sheehan (Lincoln):** Can you enlighten me as to what the objects of the foundation are and who comprises the membership?

**Mrs Ashton:** The members are simply the board of directors. They compose the entire foundation. The objects are to take in endowments and pay out the income for grants to enhance the London community. They've now paid out over \$4 million in grants, approximately \$500,000 this year, to enhance the London community through other charities, for example, Memorial Boys' and Girls' Club and some other London charities.

**Mr Sheehan:** These people sound like they are very enlightened, or does this board, this nominating committee which is the board, elect itself?

**Mrs Ashton:** The nominating committee elects the board, and there is a grants committee which decides where the grants will go. People apply for a grant and the grants committee decides which applications are accepted and how much the grant will be.

**Mr Sheehan:** If Mr Shea wanted to be on that board, how would he do that?

**Mrs Ashton:** The elections are every year.

**Mr Sheehan:** It's one third, I noticed that.

**Mrs Ashton:** Yes, one-third rotation, so there are five openings now each year for the non-board members. The board recommends a certain number of people so Mr Shea would give word to the board that he was interested and then those names go to the nominating committee and the nominating committee decides who is elected.

**Mr Sheehan:** I realize the questions I have been asking have nothing to do with the bill but I was fascinated. How do you go about soliciting funds?

**Mrs Ashton:** One of the biggest parts this year is just working up the knowledge of the London community and surrounding community of the foundation. In the past you had certain people who have given large funds and certain people who know of the foundation and there have been recurring donations from a smaller pod of people, so they are trying to really market the foundation. Starting this year, that was one of their main objectives, to solicit more funds from the full community.

1020

**Mrs Boyd:** Given the composition of the nominating committee, it's unlikely that Mr Shea would be nominated because obviously it is the London Community Foundation, and when you look at the nominating committee, quite clearly the purpose is to have these people who are knowledgeable and who have contributed a great deal to the city of London.

I have one question. I understand entirely why the foundation would want to cease the practice of publishing its audited accounts in the newspaper, given the cost of that and given that there is indeed a wide circulation of the printed annual report. My reservation is that, at a time when the foundation is trying to get many more contributions from the general public within London, those two things may be counterproductive. I'm not objecting to it, because I really understand that the cost factor is a major issue and all charities are trying to keep their administrative costs to a minimum. I just worry that it may be counterproductive to the marketing situation.

**Mrs Ashton:** They think it's a better marketing tool to put it out in their annual report, which they send out to thousands of people in the London and surrounding community. That explains a lot more about the foundation as opposed to just the financial statements being in the newspaper.

**Mr Shea:** My question was for Ms Boyd, but Mr Wood may want to add to it as well, and that's because it was an insightful question. I understand the nature of it, given my own professional life. A question for them is whether the London Free Press, for example, has been asked to print these kinds of reports in some kind of distilled fashion free of charge.

Mr Wood, for example, has requested and Mr Boushy has placed before the committee a request that the Parliament of Ontario waive the fees of what's involved here, and I will probably support that. I will be asking the clerk to tell us how much that represents in terms of cost, but



assuming it is not in the millions, I will be giving my complete support to that.

It strikes me that there may be an interesting spot here to begin to think, how do our charities that are required to or at least should be reporting out able to report out in a cost-effective fashion publicly? My encouragement to the press would be to make an appropriate donation in kind by allowing for free printing. I don't know if they've been approached to do that. Perhaps Ms Boyd or Mr Wood could respond, or Tammie.

**Ms Ashton:** I know for our advertising for this bill, they do have a reduced charity fee for their advertising, but it was still almost \$1,000 to run four ads.

**Mr Shea:** You make my point. A reduced fee is not something that still causes me to be exhilarated because what often happens is, out of the public purse, through donations, grants, from any level of government or from the charity of the community, individually and corporately, that part of the community is still being enhanced in terms of its own coffers. I'm not opposed to the free marketplace, but this is one area that I think deserves some kind of consideration.

**Mrs Boyd:** I think the possibility of that would have been much higher even a year ago, at which point our local press was owned by the Blackburn family, which itself has the Blackburn Foundation and which contributed and continues to contribute quite heavily to our community. The Free Press has been purchased by the Sun Corp and I suspect that that is less possible, just given that it's not a local, family-owned newspaper any more, than it might have been in the past.

**Mr Shea:** Just before Mr Wood responds, I want to make it very clear, I am indifferent to who owns the papers, whether it's in London, Windsor, Toronto, Ottawa or anywhere else. It is a matter of our, individually and as elected representatives, finding ways to encourage all local media to recognize that a contribution they can make to the volunteer community, to the charitable communities, is perhaps a modest — and I emphasize the word “modest” — but a helpful means of providing annual reports. I'm not looking for full-page ads or even quarter-page ads, but something that would at least address the question raised by Ms Boyd. Whoever owns, I'm indifferent to.

I'm sorry, I cut off Mr Wood. He wanted to respond as well.

**Mr Bob Wood:** I was simply going to add that I think any entity like the London Free Press has to have a consistent policy on this matter, which it is my understanding they do. They give a reduced charitable rate. It becomes a little problematic when they start picking and choosing between which charity they help and which they don't. That's their business, of course, but I think there's some logic behind their position.

**Mr Shea:** Chairman, I understand and respect that rejoinder. Having been a member of local councils, where I've had to make decisions to pick and choose, I know it's not always easy. It's resolved by simply saying a maximum or a certain amount of size. But I'm not here to write a policy for the London Free Press or the Toronto Sun or

anybody else, just to say it would be appropriate if the law requires a reporting out, and I emphasize that part. If the law requires a reporting out once a year, the best way to do that is in a public vehicle like a local newspaper. It's certainly better paying a reduced fee. I applaud all the papers for that. If they don't do it, I don't applaud them at all. If they do it, good on them.

All I'm suggesting is it may be a place for the local members to have a quiet lunch with the local publisher to see if they would be prepared to even go another step. But having said that to Mr Wood, I have to say that to myself as well, so I will now listen very carefully to what I just said.

**Mr Bob Wood:** I think the suggestion's a good one.

**Mrs Boyd:** As I read the bill, there's nothing that would preclude the kind of action you're suggesting or preclude the publishing of those reports if that should be an agreement. I think in terms of considering the bill, we're removing the obligation to do so but not the ability to do so.

**Mr Shea:** I agree.

**Mr Hardeman:** To legal counsel, in the bill where it talks about the term of office for the directors of the foundation, that they cannot be reappointed, and then the next section goes on to say that if the board considers it in the best interests of the board, a member could be reappointed after their first term, I was wondering, in your interpretation of that, who would make the decision in the best interests of the board?

Obviously, in the nominating process, the nominating committee comes forward with a slate to replace the slate that presently is there. Would they make the decision whether it was in the best interests of the board to have a member reappointed or would the board make a recommendation to the nominating committee telling them not to nominate someone else but to renominate the existing member?

Going on with that, I would have some concern, if that's the approach, that we could have a foundation making recommendations to a nominating committee not to bring any new people in but to renominate all the outgoing members.

**Mrs Ashton:** The general rule is a three-year term without reappointment. My understanding is the board makes the recommendations to the nominating committee of a number of people. The nominating committee then picks the board. They've never used the reappointment clause. It has been in the act in the past and they've never actually used it, but it leaves them an opening in case it's required. The only time they've had a board member is where you go through the avenue of becoming vice-chair, chair and past chair. That takes more than the three-year term. But generally everyone else is just in there for the three-year term.

**Mr Shea:** I'm delighted to support the bill. I have one question of Mr Prins, and that is, picking up on Mr Boushy's amendment, about the cost. What is the cost?

**Clerk of the Committee (Mr Tom Prins):** The filing fee is \$150 and the printing cost is based on the size of the



bill. For a bill this size the ballpark figure would be about \$400.

**Mr Shea:** Thank you very kindly. I think that's a modest and appropriate contribution.

**The Chair:** Any further questions?

**Mr Boushy:** I am ready to make a motion.

**The Chair:** What I would like to do, Mr Boushy, is go through and vote on the various sections of this bill and then at the end I'd like to entertain your motion.

**Mr Boushy:** We could do the whole thing, Mr Chairman.

**The Chair:** What do you mean "do the whole thing"?

**Mr Boushy:** The bill.

**The Chair:** Are the members ready to vote on the bill? I'd like to proceed with the vote.

**Mr Boushy:** I move that Bill —

**The Chair:** Mr Boushy, at that point, as we vote on the bill, I would like to entertain your motion, but not before we vote on the bill.

**Mr Boushy:** Yes, I'm making a motion on the bill itself right now, to approve the bill.

**The Chair:** What I would like to do now would be to ask the committee, are you ready to vote on the bill? We are voting on Bill Pr91, An Act respecting the London

Community Foundation, sponsored by Mr Wood, MPP for London South. In keeping with tradition, I would ask if we could collapse several sections of the bill.

Shall sections 1 through 6 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

At this point, I would now entertain a motion. Please read the motion again at this point.

**Mr Boushy:** I move that the committee recommend that the fees and the actual costs of printing at all stages be remitted on Bill Pr91, An Act respecting the London Community Foundation.

**The Chair:** You have heard this motion. All in favour of this motion? Opposed? I declare that motion passed. I declare this order of business carried.

**Mr Bob Wood:** As we depart, Mr Chair, I wonder if I might, on behalf of the foundation and myself, thank the committee for its consideration.

**The Chair:** Yes, I wish to thank you and Mrs Ashton for your attention. We now adjourn at the call of the Chair.

*The committee adjourned at 1032.*





## CONTENTS

Wednesday 3 December 1997

<b>Election of Vice-Chair .....</b>	<b>T-285</b>
<b>Appointment of subcommittee .....</b>	<b>T-285</b>
<b>London Community Foundation Act, Bill Pr91, <i>Mr Bob Wood</i> .....</b>	<b>T-285</b>
Mr Bob Wood	
Mrs Tammie Ashton	

### STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

#### **Chair / Président**

Mr Toby Barrett (Norfolk PC)

#### **Vice-Chair / Vice-Président**

Mr Dave Boushy (Sarnia PC)

Mr Toby Barrett (Norfolk PC)

Mr Dave Boushy (Sarnia PC)

Mr David Caplan (Oriole L)

Mr Ernie Hardeman (Oxford PC)

Mr Gary L. Leadston (Kitchener-Wilmot PC)

Mr Tony Martin (Sault Ste Marie ND)

Mr Tony Ruprecht (Parkdale L)

Mr Derwyn Shea (High Park-Swansea PC)

Mr Frank Sheehan (Lincoln PC)

#### **Substitutions / Membres remplaçants**

Mrs Marion Boyd (London Centre / -Centre ND)

#### **Clerk / Greffier**

Mr Tom Prins

#### **Staff / Personnel**

Ms Susan Klein, legislative counsel



**Legislative Assembly  
of Ontario**

First Session, 36<sup>th</sup> Parliament

**Assemblée législative  
de l'Ontario**

Première session, 36<sup>e</sup> législature

**Official Report  
of Debates  
(Hansard)**

Wednesday 10 December 1997

**Journal  
des débats  
(Hansard)**

Mercredi 10 décembre 1997

**Standing committee on  
regulations and private bills**

**Comité permanent des  
règlements et des projets  
de loi privés**



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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
REGULATIONS AND PRIVATE BILLS

Wednesday 10 December 1997

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS  
ET DES PROJETS DE LOI PRIVÉS

Mercredi 10 décembre 1997

*The committee met at 1006 in committee room 1.*

**The Chair (Mr Toby Barrett):** Good morning, all. Welcome to this regular meeting of the standing committee on regulations and private bills for today, Wednesday, December 10, 1997. We have two main orders of business: consideration of the report on regulations and, secondly, Bill Pr89.

## REVIEW OF 1996 REGULATIONS REPORT

**The Chair:** Our first order of business is consideration of the first report on regulations, 1997. You have a document titled Draft Report on 1996 Regulations. I would mention that this draft report is still confidential until tabled. To better explain the draft report on regulations, we'll be calling on both our clerk, Tom Prins, and the research officer who has prepared this report, Philip Kaye.

**Mr David Caplan (Oriole):** On a point of order, Mr Chair: Why is the report confidential?

**The Chair:** It hasn't been tabled. It's a draft report. Are you suggesting —

**Mr Caplan:** I'm just asking, why is it confidential?

**The Chair:** I'll ask the clerk to explain this further.

**Clerk of the Committee (Mr Tom Prins):** The annual report is confidential until it's tabled in the House. All members of the assembly are privy to that information before it's distributed anywhere else.

**Mr Ernie Hardeman (Oxford):** I have a question on the approach. I have some difficulty understanding how we can discuss, in an open public committee, a confidential report that's going to become confidential again when the committee work is completed and stay confidential until it goes to the House. If it's going to be a confidential report, it would have to be discussed in closed committee prior to it going to the House.

**The Chair:** Do you wish to make a motion to that effect? Did you wish to make a motion for an in camera session?

**Mr Hardeman:** I'm not in a position to know whether it needs to be confidential. If it needs to be confidential, then I would make a motion that we have it in closed committee hearing.

**Mr Tony Ruprecht (Parkdale):** I'll make a motion to that effect, that this is confidential and should be in camera. I think the parliamentary assistant has a good point. It really belabours the point, how can you have something confidential when you've got the doors open and "mem-

bers of the public" present? It's a strange situation we're in. My motion stands, I guess.

**Mr Frank Sheehan (Lincoln):** What's the motion?

**Mr Hardeman:** The motion that we go into closed session.

**The Chair:** The only thing I will mention is that, given tradition, it apparently has not been an in camera session in the past.

**Mr Caplan:** Then it shouldn't be a confidential report.

**Mr Sheehan:** There is nothing in it that's confidential. I don't even know why we had the question. It's just a good working paper. Let's read it, and let's talk about it.

**Mr Caplan:** So it's not a confidential document? We can deal with it in a public forum?

**The Chair:** Any further discussion on this motion?

**Mr Sheehan:** This motion to go in camera?

**The Chair:** Yes.

**Mr Sheehan:** Get a seconder if you can, and then we'll vote it down.

**The Chair:** We don't need a seconder. I hear no further discussion. Are the members ready to vote on this motion? All in favour of the motion presented by Mr Ruprecht? Those opposed? I declare the motion defeated.

**Mr Ruprecht:** We have another motion: that this report be named non-confidential.

**Mr Caplan:** He makes a good point.

**The Chair:** I may have been given some information in error. I understood it to be confidential, anything that's not tabled.

**Mr Hardeman:** I would ask if this report is still confidential. After this meeting if it somehow got out to the public, I would like to know who was going to be accused of leaking this information.

**The Chair:** I notice your report is stamped "Confidential" and mine isn't.

**Mr Hardeman:** I think the issue does need to be resolved. If it's a confidential report, you discuss it in confidence; if it's a public report, we hold a public meeting on it. For me to decide whether it should be a confidential report, I would not be able to make that decision personally until we've had the discussion. I can assume that when I get a document that has a stamp on it that says "Confidential," that report should be discussed in confidence. After the report has been discussed, if we want to make it public, we would then proceed to make it public.



**Mr Sheehan:** Can I suggest we get the hell on with this, because this is nonsense.

**The Chair:** I would like to get on with this. Let's just recognize that some people have reports marked "Confidential" and some people have reports that aren't marked "Confidential."

**Mr Ruprecht:** There's a motion on the floor. You can vote it down, but it's on the floor. The motion I made is on the floor, that this report be named non-confidential. Let's get on with it and do it. Vote it down if you like.

**The Chair:** I've been advised that we should recess for two minutes until we get an answer with respect to whether this should be marked "Confidential" or not.

**Mr Ruprecht:** So I withhold my motion? I suppose that's what you're asking me to do. It's on the floor.

**The Chair:** I'm just declaring a recess.

*The committee recessed from 1012 to 1015.*

**The Chair:** I wish to reconvene our meeting, agenda item number one, considering the report on regulations. Our clerk has additional information, which I would ask be explained to the committee.

**Clerk of the Committee:** Just by way of clarification, there have been many examples in the past where the committee has debated a confidential report yet the report does remain confidential until it's tabled in the House, or, as Mr Ruprecht was suggesting, we can move a motion to have this report be no longer confidential. Those are our two options. Whatever the committee's decision is, we can proceed along either path.

**The Chair:** I would entertain motions.

**Mr Caplan:** I think you have a motion.

**The Chair:** Could you repeat the motion that is presently on the floor?

**Mr Ruprecht:** That this report be deemed non-confidential, so that members of the public can be present.

**Mr Joseph Spina (Brampton North):** On a point of order, Mr Chair: What was the context of the vote that we just had before you recessed?

**The Chair:** We had a motion to go into closed session on the assumption that this was confidential.

**Mr Spina:** We voted the closed session down. Is that correct? So does that not presume that anything discussed after that point is clearly on the public record and non-confidential?

**The Chair:** I guess we are saying the debate would be public but the report is assumed to be confidential at this point.

**Mr Spina:** Does that mean it's out of order, if it's confidential and we are in public session?

**Mr Caplan:** That's what the motion addresses.

**Mr Spina:** I'm trying to understand Mr Ruprecht's point, that's all. Is that correct? Is that one way to interpret it?

**The Chair:** Do you want to answer that?

**Clerk of the Committee:** There have been many examples in the past where we have debated a confidential report in open session. Obviously it's an open session. The public is here; that's public. Technically, the report itself is confidential until it's tabled in the House. Obviously,

some of that information may have been discussed in committee.

**Mr Spina:** So Mr Ruprecht's motion is in order. Thank you.

**The Chair:** We have a motion to declare this report non-confidential. All those in favour? Those opposed? I declare the motion carried.

I would now ask our research officer, Philip Kaye, to run through an explanation of the report.

**Mr Philip Kaye:** As revealed in my covering memo, the draft report is divided into five parts: (1) the origins and nature of the committee's mandate regarding regulations; (2) statistics on regulations during the past 10 years, focusing on 1996; (3) regulations reported as violating the committee's guidelines, and just one regulation is included here; (4) a summary of a case currently before the Supreme Court of Canada in which an Ontario regulation setting probate fees is being challenged — this case involves two of the principles expressed in the committee's guidelines; and (5) appendices which contain the committee's formal terms of reference and statistics on the 1996 regulations arranged by act and ministry.

Looking at the report itself, this committee's terms of reference regarding regulations are contained in two sources: the Regulations Act and the standing orders of the Legislative Assembly. In 1969, the Legislature added section 12 to the Regulations Act to provide for the appointment of a standing committee on regulations. The previous year, the so-called McRuer commission had recommended the creation of such a committee, explaining that, and I quote from near the bottom of page 1, "It is a primary function of the Legislature to make the laws, and it is responsible for all laws it makes or authorizes to be made."

Section 12 of the Regulations Act states that every regulation stands permanently referred to the Legislature's regulations committee, which must consider the scope and method of the exercise of regulation-making power but not the underlying policies or legislative objectives. I've highlighted a consequence of that provision near the top of page 2. "Thus, an evaluation of the need for a particular regulation and its effectiveness is outside the committee's mandate." Section 12 also says that the committee must report to the assembly "its observations, opinions, and recommendations," which it is doing in this report.

The other source of the committee's mandate regarding regulations is standing order 105(k). This standing order lists various guidelines for carrying out the committee's statutory mandate. For instance, there must be statutory authority to make each regulation. Under the standing order, the committee cannot inform the House of a violation of the guidelines without first giving the ministry or agency concerned an opportunity to explain the alleged violation.

With regard to statistics on regulations between 1987 and 1996, the graph at the top of page 3 shows changes in the number of regulations filed during the past 10 years. During the first eight years covered by the graph, the average annual number of regulations was 785. During the



past two years, the average annual number of regulations was 557, which represents a drop of almost 30% from the 1987 to 1994 average.

The regulations filed in 1996 were made under the authority of 148 acts; 14 of the acts, or 9%, accounted for over one half of the total regulations. The Planning Act, the Highway Traffic Act and the Crop Insurance Act generated more regulations than any other act. Over two thirds of the regulations fell under the authority of five ministries: municipal affairs and housing; transportation; consumer and commercial relations; health; and agriculture, food and rural affairs.

An overview of the regulations filed during 1996 raised some questions regarding possible violations of the guidelines respecting statutory authority, precision of language and retrospectivity.

In accordance with the standing orders, letters were sent to three ministries and Management Board inquiring about the potential violations. After examining the responses, the legislative research service has decided to bring forward one regulation in this draft report which is a violation of the retrospectivity guideline, but only by seven days.

In the draft, the committee says the following in regard to reporting one regulation:

"In reporting only one regulation, we wish to emphasize our belief that the beneficial effect of our work extends beyond the discovery and rectification of violations of our guidelines. We think our mandate in itself has a positive impact upon the drafting process. As Smirle Forsyth, a former assistant clerk and clerk of committees of the Ontario Legislative Assembly wrote almost 20 years ago:

"Perhaps the most important result of the work of scrutiny committees is that their vigilance gives departments of government a lively consciousness that critical eyes are kept upon them."

The regulation which is reported makes various amendments to the general regulations made under the Toronto Islands Residential Community Stewardship Act, 1993. Most of this regulation was retroactive by one week without statutory authority to do so. The ministry answers that it was intended that the regulation be filed one week earlier. That did not occur because of an administrative misunderstanding. The ministry regrets the delay in filing and indicates that it will do its part to ensure that there is no recurrence.

The draft report ends with an outline of a case which is currently before the Supreme Court of Canada, where there is a challenge to an Ontario estate regulation dealing with probate fees. Two of the principles expressed in this committee's guidelines — the requirement for statutory authorization of a regulation and the distinction between a tax and a fee — have been raised in this case. The action was launched by Marie Eurig, who is the executor of the estate of her late husband, Donald Eurig. She applied for an order that she be issued letters probate to enable her to administer his estate without paying probate fees. In so doing, she sought a declaration that the regulation which

required the payment of these fees was illegal. She lost at the Ontario Court (General Division) level and then appealed to the Ontario Court of Appeal.

In the Court of Appeal she submitted that the probate fee was not properly authorized under the Administration of Justice Act. That fee escalates from \$5 per \$1,000 on the first \$50,000 of an estate to \$15 per \$1,000 on the part of an estate that exceeds \$50,000.

It was further argued that these amounts constituted a tax and not a fee, in which case it was contended that certain consequences flowed from the Constitution. First, if the probate fee was an indirect tax, it was contended that it was beyond the competence of a provincial Legislature. Second, if the fee was a direct tax, it was said that the Legislature could not delegate to the Lieutenant Governor in Council the power to impose it.

With regard to the issue of statutory authorization, it was argued that the Lieutenant Governor in Council's fee-making powers under the Administration of Justice Act were limited to defraying the costs of granting probate. The Court of Appeal rejected this argument, concluding that the act in question did not require that a court fee must bear a direct correlation to the cost of providing the particular service. Rather, the fee must seek to contribute to defraying the costs of the court providing the service and not the costs of court administration generally. Probate fees were seen as being valid within this framework.

As to whether a probate fee was a tax, the court ruled that the fee was not a charge for a public purpose and thus was not a tax. The probate fee was considered to be part of a regulatory scheme for the administration of justice in the general division of the Ontario Court.

The Court of Appeal judgement closed with a reference to the constitutional argument that the delegation of taxing power to the Lieutenant Governor in Council was implicitly prohibited by the Constitution, as a tax levied by the Lieutenant Governor in Council would neither originate in the Legislative Assembly nor be recommended to the assembly by message of the Lieutenant Governor.

It was further alleged that even if taxing power could be so delegated, the act which delegated the power to tax must itself be recommended to the Legislative Assembly by message of the Lieutenant Governor.

The court responded that the short answer to these arguments was that the fees in question were not taxes. It did, however, make reference to the delegation argument by referring to a 1978 decision of the Supreme Court of Canada, including comments of Mr Justice Pigeon. The reference to the Supreme Court of Canada is described on page 8 of the draft report. The draft ends with a statement that the committee will be following developments in the Eurig case closely, as the judgement of the Supreme Court of Canada should be of assistance in the interpretation of the committee's guidelines.

#### 1030

There are four appendices at the back of the report. Section 12 of the Regulations Act is reproduced in its entirety in appendix A. As I mentioned, section 12(3) says that the committee cannot make reference to the merits of



the policy or objectives to be effected by the regulations or enabling statutes.

Appendix B lists the guidelines which the committee applies in reviewing the regulations. There are nine guidelines listed. In addition to these guidelines, the practice of the committee has also been to assess whether a regulation complies with the Charter of Rights and Freedoms.

The two guidelines which were raised by the Supreme Court of Canada decision which I just outlined were: guideline ii, which says that, "Regulations should be in strict accord with the statute conferring of power, particularly concerning personal liberties," and guideline viii, which says that, "Regulations should not impose anything in the way of a tax (as distinct from fixing the amount of a licence fee, or the like)."

Appendices C and D contain statistical information on the regulations filed in 1996. Appendix C lists the acts which generated at least 10 regulations and appendix D lists various ministries and authorities and the number of regulations filed last year for which each is responsible.

That completes my overview of the draft report.

**The Chair:** Do members of the committee have any comments on this draft report, or questions for Mr Kaye?

**Mr Caplan:** First I'd like to thank the staff for preparing the report. I found it quite helpful and it was actually very well written.

I have a question in regard to standing order 105(k). If these provisions are broken by an act or a regulation, what is the recourse? What happens then? I note that in the one challenge you had, they said, "It was only a week late and we'll make sure it doesn't happen again." But let's say it was something far more substantial than that. What kind of recourse is there, should the provisions of this standing order and of the Regulations Act be broken?

**Mr Kaye:** Let's say, for example, the committee finds that there has been a violation of the guideline regarding statutory authority and the committee concludes in its report that a particular regulation or part of a regulation has not been authorized by the statute under which it's purported to have been made, and the ministry disagrees with the committee's conclusion — or even that the ministry does agree. What does the committee say about the violation in the report? The committee has various options.

If you look at the end of the standing order, there's a reference to the committee from time to time reporting to the House its observations, opinions and recommendations, which means, in the example I'm giving, the committee may simply observe — and this would be an opinion as well — "We feel that this regulation or part of this regulation has been made without statutory authority," and end it at that point. So there would be an observation from the committee that the committee's guideline in this area has been violated, but nothing further would be said.

Another option for the committee is to carry this kind of observation one step further and make a formal recommendation. In so doing, the committee has two kinds of recommendations it can make. It can recommend that the regulation be amended so it is in compliance with the act under which it is made, or the committee could recom-

mend that the act be amended to authorize the regulation the way the regulation has currently been drafted. Those are the three options. Really, it's two broad options: an observation and opinion or a recommendation.

**Mr Caplan:** In that situation — and I do think of several in specific, but just in general — if a piece of legislation is adopted by the Legislative Assembly which seems to violate some of these guidelines, how would that be dealt with by this committee? What would be the mechanism to deal with something like that?

**Mr Kaye:** When you say the assembly may adopt legislation in compliance that's in conflict with the guidelines — the guidelines are applicable to regulations, as opposed to statutes, in the sense that these guidelines are invoked when the regulations are being reviewed. Under the Regulations Act, which creates this committee, in section 12, which is found in appendix A, subsection 12(3) says the committee cannot make "reference to the merits of the policy or objectives to be effected by the regulations or enabling statutes," in which case the committee does not have the authority to comment on the policy expressed in the regulation-making clause of a bill.

This is an issue which was raised in 1988, when the committee conducted hearings on the regulation-making process, at which point the committee recommended that there be an amendment to the Regulations Act authorizing the committee to look at enabling clauses and bills, that when a bill went to a standing committee, the bill would be referred to the regulations committee to look at the enabling clause. This committee would need the entire bill referred so it could examine the enabling clause in the context of the bill. After examining the enabling clause, the committee would pass on its advice to the standing committee which was reviewing the entire bill. The proposal that the Regulations Act be amended to authorize the committee to look at this part of a bill was never implemented.

**Mr Caplan:** So that amendment was proposed, but it was never adopted.

**Mr Kaye:** Right.

**Mr Caplan:** Okay. I'd be very interested in following up, because it seems to me to be a somewhat sensible way of operating, to ensure that what you're doing is in accordance with the guidelines you set. If you do have a body, a committee which is responsible for reviewing the regulations, that would be an appropriate body in order to have some scrutiny to make sure everything is in compliance.

We do have a subcommittee of this committee. I wonder if it might be appropriate for that subcommittee to take a look at this question, to revisit it and perhaps make some recommendations, have some discussion. Obviously, if that amendment failed, there were some very valid reasons why it should not proceed. But I'm wondering if it might be appropriate to revisit that in the subcommittee and perhaps have a report back to this committee on the viability of that kind of arrangement.

If it is appropriate, I would move that motion, that we refer this question to the subcommittee. They can take a look at it and then report back to us at some later time.



**The Chair:** Are you recommending we have a subcommittee meeting to discuss this, and to hold this report until we get the results of that?

**Mr Caplan:** No, I think we should proceed with the report. As you well know, I'm the newest member here and I'm trying to understand and learn about various aspects of lawmaking, if you will. I would very much like the opportunity to discuss the issue as Mr Kaye has elaborated on it.

1040

**The Chair:** Mr Hardeman, did you have a comment on that point?

**Mr Hardeman:** Yes, on that issue, I don't disagree with providing the opportunity for the subcommittee to discuss the issues of the operation of the committee, but I would have some concerns, as were just outlined by the research department, that the issue of this committee reviewing legislation as to the enabling clauses for regulation-making authority has been reviewed by this committee. Recommendations have gone forward to give this committee that authority. I'm not aware of when that happened or why it happened, but the result of that was that it was not acted upon, because the power-giving authority for this committee decided this committee should not have that responsibility.

I would, I suppose, question the need or the appropriateness of having the committee reviewing exactly that same function, to see whether we should recommend once again that this committee have that type of authority.

**Mr Caplan:** I wasn't suggesting that. As I listened to Mr Kaye, I believe he said the past review or the suggestion that this process take place was about 10 years ago. From time to time I know we do review various aspects of authority, of legislation, and 10 years would seem to me to be an appropriate amount of time to revisit something, particularly since it was recommended, I believe Mr Kaye said, by this committee. Although it was not adopted, it was recommended by the committee. It may be appropriate — I believe it is appropriate — to look at it again. By referring it to a subcommittee, we can look at the reasons, pro and con, that were reviewed 10 years ago, whether they're still applicable or not, and report back to the committee. The committee can then choose to do with it what it will. It would then, of course, have to be referred on to the Legislative Assembly, which would then approve or not approve whatever those recommendations are.

It seems to me to be a very reasonable process, and one that would give way to a lot of reasoned thought, so I would move the motion that the subcommittee review this particular question. I'm not going to specify any times or dates. I guess it would be at the call of the Chair for that subcommittee.

**The Chair:** Okay. I guess this goes back to what Mr Hardeman was saying. I'll ask the clerk to — have you been discussing this with someone on the phone while we've been talking?

**Clerk of the Committee:** If I understand your point correctly, you are talking about going to subcommittee and possibly expanding the committee's mandate to look at —

**Mr Caplan:** No, just having the subcommittee revisit the question and see whether or not it's valid —

**Clerk of the Committee:** — that we should be looking at these enacting clauses first?

**Mr Caplan:** Yes. But the subcommittee, of course, would have to report back to this committee, which in turn, if things were supported, would have to report to the Legislative Assembly.

**Clerk of the Committee:** I can confer with Philip as well, but I believe that would probably be something we'd contain in the report; we wouldn't pass the report first and then have the subcommittee go back and possibly reopen it.

**Mr Caplan:** That's not in the report.

**Clerk of the Committee:** No. But that would be a recommendation the committee would make. You could move that kind of recommendation, that it be included in the report.

**Mr Caplan:** I see no reason to do that. In fact, if you want to take it as a notice of motion arising out of this report, the recommendation to visit in subcommittee some questions and the one I specified, that's fine with me. However, I don't see that it needs to be a part of this particular report.

**The Chair:** Mr Spina, does this relate to this discussion?

**Mr Spina:** Yes. I may be being overly simplistic here, but I'm concerned about a subcommittee now developing into a greater red-tape issue, because that's clearly what seems to be coming out of this. As I say, I apologize if I sound as if I'm being overly simplistic, because I'm not a lawyer, and there are others here who certainly have far more legal training. But it appears to me that this is an issue of whether a regulation, a matter of policy, contravenes a matter of statute. My simple question is, if there is a statutory piece of legislation that is in place and a regulation contravenes that, then where's the problem here? In my opinion, legislation always seems to supersede any regulation or any policy. If that's being overly simplistic or if I didn't understand the issue here, then please correct me, but if it's a matter of changing regulations and policies to comply with legislation, then, damn it, do it. That's not something that has to be done by this committee; that can be done within the ministries themselves.

**Mr Caplan:** I appreciate the words of my friend opposite. With respect, that's not the point I was making. Certainly, regulations must be in line with statutes; there's no question about that. The point was that in order for that to happen and to ensure that everything is in line, there was at one time a recommendation from this committee, about 10 years ago, to ensure that such a thing did happen, that everything was in line and that it would be reviewed by this committee.

I'm saying I think it might be an appropriate opportunity, 10 years later, for this committee to at least discuss in subcommittee — and they could give us the result of the discussions in subcommittee — whether or not it is appropriate to review and revisit that question, to ensure that everything is kept as it should be and in line with the



normal processes we have. I'm not seeking any great kind of red tape situation.

**Mr Gary L. Leadston (Kitchener-Wilmot):** Why don't we vote on it?

**Mr Spina:** My point, if I may respond, is that to me it only seems appropriate if there's a rationale behind it. Respecting the case that Mr Kaye brought forward, if there's a contravention of some sort that has taken place between a regulation and a piece of legislation, then correct the regulation unless the piece of legislation must be changed for justifiable reason. I can understand that. But just to arbitrarily say, "Well, 10 years later we should be revisiting this because it's appropriate," sounds like a make-work project, sir. I would never be in favour of it.

**Mr Hardeman:** I have a question on process more than on the substance of the request. The clerk mentioned the issue that if this committee was to make such a recommendation, it should be made in this report as opposed to sending the issue to the subcommittee and back to this committee to make another report.

To the clerk, am I wrong or is it a reasonable assumption that on regulations this committee reports to the Legislature once a year, that this is the report on the regulation issues as they have been compiled for the events, and from this report to the next year we will be dealing with private bills, as opposed to regulations? This is the regulation part of the committee's work today. If we were talking about adding to the report to make recommendations to the Legislature, these recommendations should be part of this report or they would become part of next year's report. Is that a reasonable assumption?

**Mr Kaye:** The practice of the committee has been to table reports on regulations roughly once a year.

**Mr Caplan:** Has it always occurred that way?

**Mr Kaye:** For the last several years, that has been the case. A major exception occurred in 1988, when the committee decided, apart from doing the kind of report which is before the committee today, to hold public hearings on the regulation-making process itself. Some of the issues that were addressed were: the mandate of this committee, opportunities for public participation in the making of regulations and also the question of giving the Legislature a power to disallow regulations. Those were some of the issues that came up.

The question of this committee having any authority over enabling clauses in bills was looked at as part of that review of the regulation-making process that occurred, and it led to a separate report in 1988 which was called the Second Report, 1988. But since that date, there has never been any kind of committee report devoted to the regulation-making process per se. The committee's reports have focused on the actual review of the regulations filed with the registrar of regulations.

1050

**Mr Sheehan:** Mr Kaye, have there been any examples or any cases that point out the inadequacy of the stipulations set out in standing order 105(k), other than this one that went on the probate?

**Mr Kaye:** In terms of cases which I followed over the past year, I really couldn't say for sure that was the only case, except in terms of cases involving statutory authority and the question of whether a regulation prescribed a fee or a tax. I believe this may have been the only one.

**Mr Sheehan:** If that's the case, and 105(k) is now 10 years old, and with the legal profession having been through kind of dire straits for the last 10 or 12 years because the real estate market has gone for a dump, it would seem that these stipulations set out in 105(k) have stood the test of time, because I'm sure if there were more than a few cases it would have jumped right out at you. It would seem this oversight function of this committee has in fact been pretty well thought out and nobody seems to have been able to poke too many holes in it.

The next thing you have to take as gospel, or at least I do, is that the Legislature is supreme. What the Legislature says, does. Since we are a creature of that Legislature, we are not likely to be creating a lot of law at this level; we may make some recommendations.

It appears to me that there's no need for a subcommittee, because what your report says to me is that whoever designed 105(k) did a pretty good job, anticipated all the areas of concern and hasn't been subjected to a successful challenge. I have a question about the mindset of the judge regarding jumping from \$5 for up to \$50,000 and then going to \$15 for anything over that. I have a problem with his definition of "tax." But the process here seems to be pretty tight and pretty conclusive. I would say that we don't need a subcommittee, and we should get on with it.

**The Chair:** Mr Hardeman, and I also know our clerk has some additional information.

**Mr Hardeman:** After sitting here and hearing the debate, we find ourselves with a problem. I think the standing orders are quite clear on what is expected of this committee as it relates to the regulations and its function. If we are going to suggest that this committee should have a different responsibility and a different function, that should come from the Legislature down to this committee, not from this committee up to the Legislature, suggesting to the Legislature that we want or that we need more authority and more responsibility in this committee. If the Legislature feels it's appropriate that the standing committees have more or different responsibilities, that's the direction it should come in. I will not be voting for the suggestion that is being put forward.

**The Chair:** I would ask our clerk for any further explanation.

**Clerk of the Committee:** Just to clarify it, I think we've got two paths forward to resolve the issue brought forward by Mr Caplan: You could either move a motion right now that we make a recommendation that the committee's mandate be broadened to include looking at enabling clauses, or we could pass the report today, subject to approval of the subcommittee. In other words, we'd be delegating the responsibility for passing this report to the subcommittee, and the subcommittee could therefore have a meeting on this issue and decide if that's something they wish to include or not include in the report.



If the committee so decides, it could be with unanimous consent of the subcommittee, and if the subcommittee is not unanimously agreed, it could come back to the committee; or it can be with a majority decision of the subcommittee, at which point the subcommittee could therefore make the decision what to include in this report, if this report is to be amended and therefore to table it or not. That motion could also be voted on.

**Mr Caplan:** Could you not pass this report, and then, as a matter arising, move the question I have put to a subcommittee to examine that question?

**Clerk of the Committee:** In general, we wouldn't pass a report with the potential of the subcommittee reopening that report.

**Mr Caplan:** No, it's not anything that stems from the report; it's not like any factual information in the report per se. It's further questions which arise out of, as I think the parliamentary assistant has said, the mandate of the committee and the scope of the committee. Is that not what the subcommittee —

**Clerk of the Committee:** To come up with a completely additional report? I'll confirm that yet again. I'll get back to you in a moment.

**Mr Spina:** I have one question. I'm still trying to understand. I guess I'm trying to get down to brass tacks here. If this report is adopted as presented by Mr Kaye, why is there any reason to go beyond that? Why do we need a subcommittee? What's the ramification if we do not accept Mr Kaye's report, with due respect, sir? It appears to me, based on Mr Sheehan's question, that there seems to be a single incident here that has prompted this exercise that has gone right to the Supreme Court of Canada. It appears to me as if this whole report has been constituted around this one challenged case in the system, since Mr Kaye has not been able to provide any other examples of where this really has been a problem.

My question is, what's the ramification of either accepting the report and saying thank you very much or turning down the report?

**The Chair:** Mr Kaye, do you deal with that area?

**Mr Kaye:** In reference to including the case that has gone to the Supreme Court of Canada, it has been included in the report for the reasons I've mentioned in that it can provide assistance to lawyers in the research service who review the regulations on behalf of this committee.

We do review regulations. We review all the regulations that are filed with the registrar of regulations. Some of these regulations prescribe fees, and sometimes the issue may arise as to whether the fee is in the nature of a tax. If there is a ruling from the Supreme Court of Canada as to whether a fee has been properly authorized by an act or on how to assess the distinction between a fee and a tax, that judgement of the Supreme Court of Canada will assist the lawyers in the research service when reviewing regulations on behalf of this committee. That is the reason for including the case.

**Mr Spina:** With due respect, if the Supreme Court makes the decision, then what does it matter what we say? As the Supreme Court makes a decision, it becomes a

matter of law and precedent, and that's going to supersede whatever this committee decides on.

**Mr Kaye:** That is why the part on the report on the Supreme Court case is basically just a summary of the case, because you are correct in what the Supreme Court says, that it would be binding in terms of principles of law. But it would certainly be of assistance when we would be reviewing the regulations on behalf of the committee.

**Mr Spina:** Are you trying to pre-empt the Supreme Court here?

**Mr Kaye:** No.

**Mr Hardeman:** I stand to be corrected by far greater experts than I am, but I think we need to understand what this report is. It is before this committee to deal with the regulatory powers that have been exercised by the government in the year 1996 in total. The only parts of this report that are highlighted are the parts where there have been some differences of opinions or different approaches used that would warrant us as a committee to look at those cases and see if that's a standard that is being used throughout the process and not being caught.

1100

I would also point out that the committee would have the ability to delay the passing of this report to a future meeting if you felt there were other areas that had not been researched properly. There may be regulations out there that someone has brought to your attention that weren't properly done but that the researchers did not find. I think the end of the report, as thorough a job as research has done — I would point out that this is the report of this committee going to the Legislature stating as to how the functions of regulatory powers have been used or abused in that year. In my opinion, the only reason to mention the Supreme Court case is that it was a regulatory power that was used by a minister, someone has decided that it was inappropriately used and it has gone to the court to prove whether it's right or wrong, not whether we agree or disagree with that regulation at all. We are just judging the process of regulatory powers, as opposed to what is right and wrong in each one. That's my opinion. Research can contradict me if they wish.

**Mr Kaye:** There's certainly no judgement made regarding the case that has gone to the Supreme Court of Canada. As I've said, what's in the report is merely a summary of the case itself. But certainly the committee is free to decide not to include any reference to the Supreme Court of Canada case at all. It does not involve a regulation filed in 1996, and if the committee feels it doesn't add to the report, then certainly the committee is free to decide to remove all references to this case.

**Mr Sheehan:** That brings us down to what the purpose of this report is. It's a nice information piece, and I thank you very much for it, but what's it about? I read through the introduction, and it doesn't tell me what the thing is about, but it seems to suggest that it should be asking and reporting on two questions: First, has this committee in fact had an opportunity to provide the oversight on all the regulation-setting of the government? On that, I find it



doesn't say that we have. Second, does it constitute our approval of all the regulations set or the process involved in the setting of the regulations? I would say the report is silent on that.

If the purpose was to comment or assess the effectiveness of this committee, it doesn't deal with that. It sets out very nicely the things that we should be doing and that we can do — and I find 105(k) very instructive — but it does not comment on whether the committee has done its job.

**Mr Kaye:** If you look at page 4 of the report, under "Regulations Reported," there's a statement that says, "The committee's review of the regulations filed during 1996 raised some questions...." That statement is saying the committee has reviewed all the regulations filed in 1996, which is also referred to in the very first sentence of the report, "The committee presents this report on regulations filed during 1996," and 564 regulations are cited.

**Mr Sheehan:** With respect, Mr Kaye, I was on the committee in 1996, and we did not review all the 500-and-whatever-you regulations that were passed by the government.

**Mr Kaye:** Which committee?

**Mr Sheehan:** We're talking about this committee.

**Mr Kaye:** Right.

**Mr Sheehan:** You're stating that we reviewed the regulations filed in 1996?

**Mr Kaye:** This raises the question in terms of the committee's process. In the past, the committee made the decision that members would delegate either to outside lawyers or lawyers within the legislative research service the responsibility of reviewing the regulations published in the Ontario Gazette to assess whether there have been violations of the committee's guidelines. If the initial assessment was that there may have been a violation of the guidelines, the lawyers working for the committee were advised to then correspond — and this is in accordance with the standing orders — with the ministry involved and request an explanation as to whether or not there had been a violation.

Those responses would then be reviewed by lawyers working on behalf of the committee. There were certain possibilities that could arise. The ministry could respond and say, "Yes, there is a violation of the committee's guidelines." Those regulations would be brought to the attention of the committee. If the ministry, on the other hand, disputed the violation, the committee has had the practice of relying on lawyers working for the committee to assess whether or not they agreed with the ministry.

If there was an agreement with the ministry in the sense that yes, there is an explanation, there really is not a violation of the guidelines, the committee has said, "We will rely on your judgement, and you don't need to bring that regulation forward." However, if after you review and research the response of the ministry, the ministry is challenging whether there has been a violation and you still think there is a violation, "Bring it to us" — the committee — "and we will decide whether we support your interpretation of the regulation or the ministry's." But this committee has never, since the very beginning, looked at

each and every regulation that has been filed with the registrar.

**Mr Sheehan:** Can I ask you — first, you're suggesting that some nameless lawyers who are not members of this committee are in fact acting as surrogates of this committee.

**Mr Kaye:** That's the way the committee has operated in the past.

**Mr Sheehan:** Is that set out somewhere in the great big rule of life?

**Mr Kaye:** Pardon? I didn't quite hear.

**Mr Sheehan:** Is that set out someplace in the rules of procedure of this committee? What you're saying is that lawyers from whatever ministry would act as a surrogate of this committee to vet the propriety or lack thereof of regulations brought forward by a ministry. That's what you're saying.

**Mr Kaye:** No, that's not quite what I'm saying.

**Mr Sheehan:** Who are these lawyers who vet these things to say whether or not they're pure?

**Mr Kaye:** There are lawyers employed by the legislative research service who, as one of their responsibilities, review, on behalf of this committee, the regulations published —

**Mr Sheehan:** For the registrar of regulations? Is that where they are?

**Mr Kaye:** No, not part of the registrar of regulations. There are really three groups of lawyers involved in this regulation process. You have the ministry lawyers, you have the lawyers in the office of the registrar of regulations and then you have lawyers in the legislative research service who, as one of their responsibilities, look at the regulations.

**Mr Sheehan:** Who was that last group? I'm sorry.

**Mr Kaye:** Lawyers employed in the legislative research service. We are research officers and we also can serve as counsel to this committee or the Ombudsman committee.

The regulations that are published in the Ontario Gazette have been reviewed by lawyers working for the registrar of regulations. That office applies the guidelines found in the standing orders. The guidelines have an initial application by lawyers working for the registrar of regulations. But after the regulations are published in the Ontario Gazette, they are reviewed by other lawyers, the distinction being lawyers working for the office of the registrar of regulations technically are employed by the Ministry of the Attorney General. The other group of lawyers, lawyers employed by the legislative research service, are employed by the office of the Legislative Assembly. They are employed by the legislative branch.

This second review of the regulations is conducted by lawyers employed by the research service on behalf of this committee. After reviewing the regulations, if there are problems, we then correspond with the directors of the legal branches of the ministries, a third set of lawyers involved in this process. We correspond; we assess their responses. Where we have a disagreement with the ministry and we feel there has been a violation, we then bring



the problem forward to the committee. Problems can vary. One year there may not be any regulations, or few regulations, to bring forward; other years there may be more.

1110

**Mr Sheehan:** My last question then is, at what point does this committee get to pass on the propriety or lack of propriety or the purity or lack thereof of a regulation? I have never seen anything brought forward to the committee saying, "We have a committee coming out of MOEE that says the following, and we think it's wrong." Does it ever come to this room on Wednesday morning?

**Mr Kaye:** There are regulations brought forward in the reports. The number can vary from report to report. This morning there happens to be only one regulation. The last report had nine regulations brought forward; I don't have the exact figure for the one before that.

One of the regulations brought forward two reports ago involved the regulation dealing with northern Ontario travel grants. This committee felt in that report that part of the regulation was not authorized by the statute. Before it reached that point, we had communicated with the legal branch of the Ministry of Health, and they acknowledged that it appeared that this part of the regulation was made without authority. It was brought forward to the committee. The options which I just outlined in terms of the committee's decision-making powers were given to the committee. The committee had the option of simply observing and expressing an opinion that part of the regulation was made without authority or recommending that the regulation be amended to comply with the Ministry of Health Act or recommending that the Ministry of Health Act be amended so as to authorize the regulation.

**Mr Sheehan:** I think the process works, but I think I've missed maybe one meeting of this committee since I got elected, and I don't remember anybody ever bringing forward a regulation such as you're talking about just now, about northern affairs.

**Mr Kaye:** That regulation goes back two reports, so certainly you were not here.

**Mr Sheehan:** Obviously. Would you do me a favour, then? Give me a copy of it, please.

I'm through. Thanks.

**The Chair:** If the committee wishes to wrap this up, I have questions from Mr Leadston and Mr Caplan, and then I think there's a motion from Mr Hardeman.

**Mr Leadston:** We've perhaps been having some intellectual stimulation for well over an hour, and I was wondering if we could refocus. I believe there's a motion on the floor.

**The Chair:** Not from Mr Caplan, as I understand, no. There's a suggestion on the floor.

**Mr Leadston:** All right, then can we deal with the motion on the report?

**The Chair:** I guess you've asked a question. I have Mr Caplan on the docket, and then there is a motion from Mr Hardeman, as I explained. Let's see what develops.

**Mr Caplan:** I don't wish to belabour anything. As I say, I really am trying to understand the purpose of this committee, what we're supposed to be doing here. I take

this work very seriously. I want to acknowledge that Mr Sheehan made some very excellent comments about the mandate of this committee and what we do here. My suggestion has been, to follow up on what he was saying, that it is appropriate for us to take a look at the process of this committee, why we're here and what we're doing. I certainly support what he said earlier. Mr Chair, you have my suggestion.

**Mr Sheehan:** On a point of order, Mr Chair: I didn't say I think we should review it; I thought I said earlier that I agreed the process seems to be working very well because they've only brought one case forward. That's what I said. I didn't say we should be looking at the process.

**Mr Caplan:** And nine the previous year, as you had inquired. I certainly appreciate the committee members taking this very seriously, and I look forward to revisiting this at a later time.

**The Chair:** You've suggested a subcommittee meeting, and I wish to have the clerk pull together a subcommittee meeting. There's this agenda item, and I understand in the fall there was at least one agenda item that could be considered by the subcommittee. So I would like to have a subcommittee meeting.

**Mr Caplan:** Very good. Thank you. If you want, Mr Chair, I'll move adoption of this report, or if you want to let the parliamentary assistant do it, that's fine with me too.

**The Chair:** It was indicated to me previously that there was a motion by Mr Hardeman. I don't want to usurp his —

**Mr Hardeman:** Mr Chair, notwithstanding the considerable debate we've had concerning the issues, we've had minimal debate on the report, and it seems to be quite an acceptable, well-drafted report to deal with the regulations of 1996. I would recommend that we adopt the report and table it with the Legislative Assembly.

**The Chair:** We have a motion to adopt this report and to table it with the Ontario Legislature. All in favour? Those opposed? I declare that motion carried.

Anything further? I declare this order of business closed.

#### CITY OF BRAMPTON ACT, 1997

**The Chair:** Our next order of business is Bill Pr89, An Act respecting the city of Brampton. I would ask both the sponsor, Mr Spina, and the applicant to approach the witness table. The sponsor for Bill Pr89 is Joe Spina, MPP. I would ask Mr Spina for some brief introductory remarks, and the committee would also wish to be introduced to the applicant.

**Mr Spina:** Thank you for allowing us the opportunity to bring this forward. With me today is Janice Atwood-Petkovski, who is from the legal services department of the city of Brampton. In fact Janice will probably — not probably; you will — be the one who will give the explanation behind this.

Chair, I'm presuming this is where I make the motion.



**The Chair:** The committee will be discussing this bill, and normally in the course of discussion or after discussion there would be a motion for any amendments.

**Mr Spina:** Okay. Basically, the amendment we are seeking to the bill is to allow the city of Brampton to get special legislation to help regulate some of the activities on public highways under its jurisdiction. For the reasons behind that, I'll turn the microphone over to Janice to give some background on that.

**Mrs Janice Atwood-Petkovski:** The city of Brampton, like many other municipalities, has a number of what are loosely referred to as street vendors. These are just really small free-enterprise businesses trying to ply their trade. Under the Municipal Act, we have the authority to regulate this kind of activity if it is on private property. Under the Municipal Act, we do not have the authority to regulate the activity if it's on public property. That's what we're seeking.

Essentially, the legislation would enable us to pass a bylaw to regulate the street vendors on public property, that is, on highways, on sidewalks and on the grassy boulevard strips that abut the roadways, and in addition to that would provide us with some ability to confiscate goods where they are in clear contravention of our bylaws.

**The Chair:** I see no interested parties to this bill. I see questions coming from the committee. Before we entertain questions, I would ask the parliamentary assistant for municipal affairs for comments on this bill.

**Mr Hardeman:** The ministry has circulated the bill to other ministries and has received no negative comments back, so the ministry does not propose that there's anything wrong with the bill. We are supportive of the bill.

I do have a couple of questions. I thought that at present the Municipal Act already allowed the regulation of this type of activity on public property. At present the Municipal Act does not allow it to be regulated?

**Mrs Atwood-Petkovski:** No, that's only under private legislation. The city of Toronto and, as I understand, the cities of Ottawa and Mississauga have private legislation that allows the regulating of street vendors on public property. I'm not sure if there are other municipalities as well.

1120

**Mr Ruprecht:** I just want to make two short points. One was just addressed, and that is that we've had deputants here before from other municipalities, so that should be fairly easy to pass in terms of the request being made right now.

The second point I think is just as important, and that is in order to cut some red tape, I'm just wondering whether we're continually getting a stream of people here who may or may not waste a lot of their time. In this case, of course, although Mr Spina has looked at this very carefully and I would certainly support his request, whatever it was, because of his very detailed analysis of this, I'm just wondering whether in terms of saving time — and over the year there are probably millions of dollars involved in having people come in here making these requests. I'm wondering whether there would be any other way to do

this so they wouldn't waste their time and we wouldn't waste the committee's time.

The red tape commission, for some strange reason, hasn't looked at this, yet at every second meeting of this committee that I know of — I've been here for a fairly long time, probably longer than any of you have been on this committee — we're bringing this up. The Conservative members in the last two years have also said, "Yes, we should look at this to cut time." I'm wondering whether this could be done through the parliamentary assistant or through you, Mr Chair. We should look at this, to try to do this more efficiently.

**The Chair:** I understand this issue was raised again in the fall. I was absent. I would wish this to be an additional agenda item for the subcommittee meeting.

**Mrs Atwood-Petkovski:** May I address the committee?

**The Chair:** One other thing I will mention: I understand a paper has been prepared to summarize some of this.

**Mr Hardeman:** If I could just offer an explanation, I think the previous discussion as to the lack of need for certain applicants to come before the committee to be heard dealt primarily with the tax exemption laws that were being requested, which are fairly standard and apply similarly to all non-profit organizations. I think there was some suggestion that we should find a way as a committee to put them through in a different manner so they wouldn't have to come forward.

I would caution that as we look at simplifying the system and reducing the workload of this committee, we would not want to venture into the area where they're actually changing provincial statutes by an internal method, that we could somehow include that in the streamlined process that says that municipalities or anyone else coming forward with an application could change a provincial statute without coming before the committee or without doing a bill through the Legislature to allow that to happen, as this case would be pointing out.

To explain it to myself and to the committee, going back to my original question about the ability of the municipality to do it, my understanding is that the municipality under the Municipal Act presently can prohibit street vending. This bill is proposing to give the regulatory ability to direct it, as opposed to prohibit it. Again, that's a change in the Municipal Act presently. I'm very supportive of the streamlining process. I think this is the type of bill that would require the actual legislative process to accommodate the need.

**The Chair:** Before I go to the applicant, is that satisfactory with you, Mr Ruprecht?

**Mr Ruprecht:** To have the subcommittee look at this? Is that what you're saying?

**The Chair:** Yes.

**Mr Ruprecht:** Of course, yes. Thank you. I appreciate that. I just hope it will be speeded up somehow.

**Mr Spina:** That's the issue in general, though, not this specific one. Is that correct?



**The Chair:** Yes, exactly. I know our applicant wishes to make some comments.

**Mrs Atwood-Petkovski:** In all fairness, there is broader licensing ability that the municipality has been given. The previous Municipal Act was quite piecemeal in terms of our ability to license generally. The legislation that came down two years ago, in 1996, broadened out that licensing ability quite considerably, and for that municipalities were very grateful to the government.

But I guess it's fair to say that the emphasis in this is on the enforcement aspect of licensing or not licensing. Whether we've licensed or prohibited, we need further enforcement ability on the public highways, and that's really the gist of this private legislation. It's the confiscatory power whereby, for example, and it's a very practical problem, the enforcement officer approaches the vendor and says, "Listen, I'm going to charge you. You're not allowed to sell on this curb or corner," or what have you, and the vendor says: "I'm not required to give you my identification. Charge me if you can, but you don't even know who I am." That's the practical dilemma. This would allow the municipality to say, "Listen, give me your name or move along, or I'm going to call for assistance and your goods will be confiscated and you'll have to come and redeem them." That's the practical aspect of it.

**Mr Caplan:** What the deputant just talked about was what I wanted to ask. The confiscation power: Is that something that exists already in other bylaws or other private members' bills that were granted by this committee?

**Mr Hardeman:** I believe the laws that were previously mentioned, such as in the city of Toronto, include that confiscation provision.

**Mr Caplan:** In fact, under the enforcement provision, it doesn't say you will do it, it says you may do it, so there is some discretion involved there. If the individual who's contravening the bylaw produces some identification and you can issue an enforcement that way, that may not be necessary.

There are two other things that I wish to ask about this private member's bill. Section 3 talks about regional roads. I understood from the preamble that this legislation was supposed to be for those public highways under its jurisdiction, and in section 3 it says that a bylaw granted under this act can apply to a regional road, which would not be under the jurisdiction of the city of Brampton. I'm a little bit curious about how that's in here and why that is and if that's not somewhat in conflict with the preamble and the nature of what this is about.

**Mrs Atwood-Petkovski:** No. That's due to the fact that in the region of Peel, the city of Brampton, along with the city of Mississauga, has an enforcement department and enforcement officers, and the region itself does not have an enforcement mechanism. By this kind of provision, we take over the enforcement of our bylaws on regional roads as well as city roads.

As you're driving through Brampton, you wouldn't know whether you're on a regional road or a city road. We would and the region would. But by agreement, we do the enforcement on all of those roads within the city of

Brampton. Certain roads become regional roads as you drive along them, and so it just confuses the issue to have two enforcement divisions. We've streamlined that by having the city of Brampton provide the enforcement within the entire city of Brampton, whether it's a regional road or a city road at that particular point.

**Mr Spina:** With due respect, Mr Caplan, I guess we should liken it perhaps to the existing city of Toronto before the amalgamation, where you have one Metro police department and regardless of whether it's a Metro road or a city of North York road, essentially Metro police have the authority to enforce laws depending on whether Yonge Street was considered to be a regional road or a local road in the city of North York. It's really not all that different.

**The Chair:** Does the parliamentary assistant have something to add on this?

**Mr Hardeman:** No, it's okay.

**The Chair:** I'll go to Mr Sheehan then.

**Mr Sheehan:** Just for clarification, under this bylaw, without this confiscatory power that this bill will give you, can I as a vendor just thumb my nose at your enforcement officer?

**Mrs Atwood-Petkovski:** If you're on the public highway. You're not required to show our enforcement officers any ID. Therefore, they are unable to issue a ticket, unless they call the police in.

1130

**Mr Sheehan:** But don't you have a licence that must be visibly displayed?

**Mrs Atwood-Petkovski:** If they are licensed, if they have obtained a licence from the city of Brampton, then we know who they are. But if they haven't obtained a license and they simply come into the city and arrive and sit themselves down on a corner boulevard somewhere, our enforcement officers cannot —

**Mr Sheehan:** No enforcement power at all.

**Mrs Atwood-Petkovski:** Effectively, no.

**Mr Hardeman:** To the applicant, going back to Mr Caplan's question and the preamble of the bill, it talks about giving regulatory powers on the roads "under" their jurisdiction. At the end of the bill it says also on regional roads.

Regional roads, although they may be in the jurisdiction of the municipality, are not under your jurisdiction. They may be in the municipality, but they are not under the municipal jurisdiction. In fairness, I would see that as somewhat contradictory. It should say "within" your jurisdiction as opposed to "under" your jurisdiction in the preamble. If it's "under" the jurisdiction, that would say it does not apply to regional roads because they are not under Brampton's jurisdiction. Am I wrong?

**Mrs Atwood-Petkovski:** That may be a possible change. I could indicate that this is basically identical, almost verbatim, to the city of Mississauga's private legislation obtained in 1994, including the wording of the preamble. In addition, I'm not sure whether the preamble itself is effectively the law or whether you have to move to the first section.



**Mr Spina:** If I may add to that, for the purposes of enforcement, it shouldn't matter whether it's "under" the jurisdiction or "within" the jurisdiction, because the city of Brampton has the enforcement authority on regional roads within its jurisdiction. Even though it says "under" the jurisdiction, for enforcement purposes, the city of Brampton has that authority regardless of whether it's a regional or municipal road.

**Mr Hardeman:** Could I ask, on the enforcement part, is the enforcement done by the region of Peel or the city of Brampton?

**Mr Spina:** It's done by the city of Brampton.

**Mr Hardeman:** It's the city of Brampton police force?

**Mrs Atwood-Petkovski:** No. The city of Brampton municipal law enforcement officers are our own municipal bylaw enforcement officers; they're not the police officers. It's municipal enforcement.

**Mr Hardeman:** Then except for this law, the city of Brampton has no jurisdiction on regional roads?

**Mrs Atwood-Petkovski:** No. For example, we have jurisdiction with respect to regulating newspaper boxes, regulating a great variety of things that take place on the public highways.

**Mr Leadston:** With the greatest respect, I think that before this bill has come to this stage, it has been vetted by the municipality. They do have a problem there. This is their solution. It's been vetted by every ministry within the Legislature here. I think we're nitpicking on wording. There have been greater legal minds than those who are sitting around this table who have vetted this particular bill. I have no difficulty with it at all.

**Mr Hardeman:** With all due respect to Mr Leadston, I would point out that there is going to be an amendment proposed to change one word that required changing after it had been vetted through all those other channels. So it's quite appropriate for committee members to question wording of the bill.

**The Chair:** With respect to amendments, there may be one or two amendments. Are we waiting for greater legal minds to advise us on that? We do have one amendment, as I understand, that we could begin with.

**Mr Spina:** That's all we're looking for.

**The Chair:** Any further questions from the committee? Is the committee willing to —

**Mr Spina:** May I make the motion?

**Mr Ruprecht:** We're more than willing.

**Mr Spina:** May I make the motion or do you wish to hold?

**The Chair:** I would ask, yes, until the clerk returns.

**Mrs Atwood-Petkovski:** There is a further clarification that was brought to my attention by counsel for the legislative committee. In addition to everything else that's been said on the subject — and I'm not sure that there's going to be any amendment moved in any case — in the preamble, the terminology "on public highways under its jurisdiction" is probably the most appropriate because

when the region has passed the bylaw as stipulated in section 3, that does move those portions of highway under the city's jurisdiction.

**The Chair:** I'll ask the clerk to pose a question to the committee because I'm not clear what —

**Clerk of the Committee:** Are we wanting to proceed as well with an amendment to the preamble? Under the standing orders, you can only amend the preamble if amendments to the bill have necessitated that type of change to the preamble.

**Mr Spina:** Is that not up to the committee to determine whether you need that? At this point, all we're doing is making a motion to amend the subsection of the bill.

**Clerk of the Committee:** Section 2? Yes, there's nothing wrong with that amendment at all. I'm just inquiring about the amendment to the preamble.

**Mr Spina:** Is it strictly preamble or is it part of the statute? That's my question to you, sir.

**Clerk of the Committee:** The first amendment that was brought forward dealing with subsection 2(1) of the bill, there is absolutely nothing wrong with that amendment. It can be moved and voted on appropriately.

**Mr Spina:** My question to you is that I would make that motion, but you indicated that if that necessitates a change to the preamble — did I understand that correctly from you?

**Clerk of the Committee:** No. Sorry. A preamble can only be amended if changes in the bill have necessitated that type of change. I'm not proposing that your amendment —

**Mr Spina:** So we can go ahead with the motion. Thank you very much.

**The Chair:** If you would go ahead with the motion.

**Mr Spina:** I move that subsection 2(1) of the bill be amended by striking out "bylaw" in the second line and substituting "law."

**The Chair:** All those in favour? Those opposed? Seeing none, I declare that amendment passed.

I would now ask the committee to consider voting on Bill Pr89, An Act respecting the City of Brampton, sponsored by Mr Spina, MPP, Brampton North.

Shall section 1 carry? Carried.

Shall section 2, as amended, carry? Carried.

I wish to collapse the next three sections. Shall sections 3 through to section 5 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill, as amended, to the House? Agreed.

I wish to thank the applicants, and declare this order of business closed.

This committee stands adjourned at the call of the Chair. Merry Christmas.

*The committee adjourned at 1140.*





## CONTENTS

Wednesday 10 December 1997

<b>First report on regulations, 1997</b> .....	T-289
<b>City of Brampton Act, 1997, Bill Pr89, <i>Mr Spina</i></b> .....	T-297
Mr Joseph Spina	
Mrs Janice Atwood-Petkovski	

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T-27

T-27

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**Official Report  
of Debates  
(Hansard)**

Wednesday 17 December 1997

**Journal  
des débats  
(Hansard)**

Mercredi 17 décembre 1997

**Standing committee on  
regulations and private bills**

**Comité permanent des  
règlements et des projets  
de loi privés**

Chair: Toby Barrett  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
REGULATIONS AND PRIVATE BILLS

Wednesday 17 December 1997

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS  
ET DES PROJETS DE LOI PRIVÉS

Mercredi 17 décembre 1997

*The committee met at 1008 in committee room 1.*

**The Chair (Mr Toby Barrett):** Good morning, ladies and gentlemen. Welcome to this regular meeting of the standing committee on regulations and private bills for today, Wednesday, December 17, 1997. We're meeting for the consideration of three bills: Bill Pr95, An Act respecting Institute for Advanced Judaic Studies; Bill Pr94, An Act respecting The Jamaican Canadian Association; and Bill Pr96, An Act respecting The Tamil Eelam Society of Canada.

Before we go to our first order of business, I wish to mention that with respect to the third item on our agenda, Bill Pr96, An Act respecting The Tamil Eelam Society of Canada, I understand that the applicants have requested a deferral of this order of business until a future meeting.

**Mr Tony Ruprecht (Parkdale):** Did you say that the Tamil Eelam Society has postponed this? Just this morning I had a phone call and there's a gentleman sitting right here who's expecting this bill to be passed. I'm somewhat puzzled by this.

**The Chair:** Yes. I received this information just now. I could ask the clerk to confirm that.

**Mr Ruprecht:** Would you, please?

**Mr Derwyn Shea (High Park-Swansea):** Do we have a deputation or not?

**Mr Ruprecht:** He's right here.

**Mr Shea:** Is that what you're asking for? Do you want a deputation on the matter whether he wants —

**Mr Ruprecht:** No, I want to have clarification.

**Mr Shea:** The Chair has just said he wants to withdraw it.

**Mr Ruprecht:** If you don't mind, Mr Shea, I'll let the Chair respond.

**Mr Shea:** I'm trying to help you, Mr Ruprecht, to expedite matters of the committee.

**Mr Ruprecht:** I appreciate that, but I think the question was asked of the Chair and suddenly I get you coming in from left field answering the question.

**The Chair:** I'll repeat that. I understand the applicant for Bill Pr96 has requested to defer to a future meeting. I don't have the reason, but I understand they do not wish to have this considered today.

**Mr Ruprecht:** Thank you, Mr Chair.

**The Chair:** All right. Subsequent to that, I would ask us to turn to page 1 of the agenda and we will deal with our first order of business.

INSTITUTE FOR ADVANCED  
JUDAIC STUDIES ACT, 1997

Consideration of Bill Pr95, An Act respecting Institute for Advanced Judaic Studies.

**The Chair:** This is agenda item number one. We are considering Bill Pr95. I would ask the sponsor and the applicant to please approach the witness table. Our sponsor is Joe Cordiano, MPP for Lawrence. Mr Cordiano, I would ask you for some brief introductory remarks and to have the applicants introduce themselves to the standing committee.

**Mr Joseph Cordiano (Lawrence):** Thank you. I'm very happy to be here this morning to support this private bill for the Institute for Advanced Judaic Studies. I am in full support of the institute. I am joined by Rabbi Hofman and Rabbi Hirschman, and their legal counsel, Mr Ed Wells.

The institute has been in operation since 1970, serving Metro Toronto since that time, located in my riding at Bathurst Street and Lawrence Avenue. They're seeking legislative authority to grant theological degrees. As I say, they have my full support. I have a letter from the former minister supporting their application, this piece of legislation. I will turn it over to their legal counsel.

**Mr Ed Wells:** I believe that Rabbi Hirschman would like to address the committee to explain what the institute does. Perhaps I could ask him to say a few words to the committee.

**Rabbi Jakob Hirschman:** I would first like to thank the committee for giving us this opportunity to briefly describe the institute and what we do. It was founded in 1970. Basically we teach from the Bible codes, the Jewish codes, Talmud. Over the years we've earned a reputation for academic excellence. Our graduates are respected in the community. We have a number of pulpit rabbis in the community whose students have studied at the institute. A large percentage of the graduates go into all levels of Jewish education — primary, secondary, post-secondary, principals — and they're respected for their erudition and for their competence. I should add that a number of these rabbis who are in education and pulpit rabbis continue to study at the institute upgrading their skills, expanding their knowledge. That's two groups of people.

The third group the institute caters to are university-age students who are going to university and majoring in their



particular choice and at the same time would like to pursue a course of Jewish studies too. We offer them courses and lectures. That's one aspect of the school. Second, it's a community resource if a rabbi has to research a problem in Jewish law. If a layman, being old or young, wants to come in and find out something about his religion, a particular question he wants to study, we've got the competent personnel and the resources there to help people.

As I mentioned privately, the building is basically in use from 6 am to 12 pm. You have to remember that aside from the academic studies, to Jews there's a religious aspect to studying too, so we really combine two functions, the academic studying which produces the rabbis and the scholars and the teachers, and then we have people who come to study in the institute as it is. Many people in the community use it and, like I said, the resources are there both in the personnel and the libraries and the people to help them with the studies.

In conclusion, the reputation we have earned, and the graduates, is not only in Toronto and Canada but has gone as far as the USA and Israel too. Many of the members have published scholastic works and the institute itself has printed journals which were very well accepted. Given the academic function that we do in the community, it would behoove us to have the standing of a degree-giving university, which is not only a question of prestige but it would help some of the students in their ongoing studies.

**The Chair:** Rabbi Hofman, any further comments? No.

**Rabbi Hirschman:** If anybody has questions, that's fine.

**The Chair:** Are there any interested parties in the audience who wish to speak to this bill? I see none. We now ask the parliamentary assistant for municipal affairs, MPP Ernie Hardeman, for comments on behalf of the government.

**Mr Ernie Hardeman (Oxford):** Thank you for the presentation. I would just point out that the issue in the bill does not relate to the affairs of the Ministry of Municipal Affairs and Housing but relates to the Ministry of Education and Training. We have been in contact with the ministry through their legal advisers and they have registered no objection to the bill, so we will not be recommending that any legal hurdles be put in the way of this bill being passed.

**The Chair:** We now go to questions from the committee, beginning with Mr Sergio.

**Mr Mario Sergio (Yorkview):** Not necessarily questions; I have heard the presentations both from the presenter of the bill, Mr Cordiano, and the applicant and I am quite satisfied to support the passage of the bill, which I move.

I would also move that the committee recommend that the fees and the actual costs of printing at both stages be remitted on Bill Pr95, An Act respecting Institute for Advanced Judaic Studies.

**The Chair:** We'll consider that motion once we've voted on the bill. Thank you for the heads up. Any further comments?

**Mr Shea:** I have one question of the applicant and a comment. Rabbi, are the laity entitled to register in the programs or is it for those in the rabbinic?

**Rabbi Hirschman:** There are two levels. Basically it's those who are interested in pursuing a course of practice in rabbinic education who are the ones who register. Our convention on the second level, we register university students who want to study and follow a prescribed course of study. When the laity comes in, he doesn't necessarily have to follow a prescribed course of study. Theoretically, if he'd want to come in and spend a few hours a day and take a course that would eventually lead him to a degree, we'd consider that, but factually that really doesn't happen.

**Mr Shea:** So it's not likely you would find any laity in, say, the doctor of philosophy in Judaics, for example. They would be in pulpit or in education.

Chairman, I want to thank Mr Cordiano for bringing this bill before us and for any contribution he has made to help expedite the matter, because I think it should be approved and approved quickly. Mr Sergio having given heads up, I will be supporting his motion as well; it's an appropriate one. I would commend this bill to the attention of all parties here today and I wish you well.

**Mr Ruprecht:** Just a comment. I had a chance to discuss with the deputants some of the items in this legislation. It obviously has merit, as everyone has indicated. What's really important to me also is that Mr Cordiano has given not only his consent, but he studied this in detail, and that's what really makes us happy about this, so congratulations.

**The Chair:** Comments?

**Mr Frank Sheehan (Lincoln):** Mine is more technical. Subsection 2(2) says, "The letters patent and supplementary letters patent of the Institute for Advanced Talmudic Study are revoked," and then you go down to 2(3) and it says, "The institute shall be deemed to be a corporation incorporated by a special act." What's going on? Am I missing something?

**Mr Wells:** Perhaps I could answer that. The corporation right now exists under the Corporations Act and has letters patent in the corporation. In order to become a degree-granting institution, the Degree Granting Act requires that it be incorporated by a special act. This bill has been drafted so that the letters patent are gone and replaced by this act. For greater certainty, so there's no misunderstanding, when one looks at the Degree Granting Act it's stated that it is deemed to be incorporated by a special act.

**Mr Sheehan:** Thank you.

**The Chair:** Do the committee members have any other questions or comments? Seeing none, I would ask the committee, are the members ready to vote?

**Mr Ruprecht:** Yes, we're ready to vote.

**The Chair:** We are voting on Bill Pr95, An Act respecting Institute for Advanced Judaic Studies; the



sponsor, Mr Cordiano, MPP. There are 13 sections, no amendments.

**Mr Shea:** Collapse them.

**The Chair:** Keeping with tradition, we would collapse the 13 sections.

Shall sections 1 through 13 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed. I will do so.

We have an indication of a motion. Could I ask you to read the motion.

**Mr Sergio:** Yes. I move that the committee recommend that the fees and the actual cost of printing at all stages be remitted on Bill Pr95.

**The Chair:** Shall we vote on the motion and then have discussion?

**Mr Shea:** Discussion first.

**The Chair:** Okay, discussion first.

**Mr Hardeman:** I'm not sure I understand the motion, "that the committee recommend that the fees and the actual cost of printing at all stages be remitted...." That would mean — if this motion becomes irrelevant, who is remitting what to whom? "To be omitted" or "to be forgiven" or something of that nature, but "to be remitted," I'm not sure who —

**Mr Sergio:** I would refer that to the attorney for the applicant.

**Mr Wells:** The rules require that an application fee be paid before we can proceed with the application before this committee and first reading or anything, so the applicant has paid the application fee; it's \$150. The motion would in effect allow a refund of that application fee to the applicant.

As for the printing cost, normally the applicant for legislation is required to pay the cost of printing the bill in the annual statutes and at first, second and third reading. We're asking in this case that the cost be waived because this is an educational institution, it's a charity, and we feel it would be nice if the moneys that might be used could be used on behalf of the institute rather than Her Majesty.

1020

**Mr Hardeman:** I support the issue of having the money reimbursed that has been so far expended by the applicant. In reading the motion, I have trouble understanding who is doing the remitting and whom it's being remitted to.

**Mr Sergio:** To the applicant.

**The Chair:** I would like to ask this committee's legislative counsel for comment on that.

**Ms Laura Hopkins:** I understand Mr Hardeman's confusion about the wording because I share it, but this is standard wording for this sort of motion. This doesn't depart at all from past practice.

**Mr Sergio:** Our clerk is so efficient.

**The Chair:** Further discussion?

**Mr Hardeman:** To the legal counsel, then, it's to assume that the legalese does not always say what it's

supposed to say, but we're supposed to know what it does?

**The Chair:** Any further discussion on this motion?

**Mr Gary L. Leadston (Kitchener-Wilmot):** Just a quick question. Would I be correct to assume that this is the first institute for Judaic studies in Ontario?

**Rabbi Nathan Hofman:** There is one other school, not in the same field. That's called Maimonides.

**Rabbi Hirschman:** I don't think the Maimonides institute exists at this point. It was taken over by the school in Hamilton. But that was basically given specifically to university students to take courses in Judaic studies and get credit for that so they could finish their university studies faster. This was a Maimonides institute. But I don't think they ever had anything at the level and purpose of our institute that I know of.

**Mr Leadston:** With respect to this bill, it's a rather historic document and a historic moment for the citizens of Ontario to have a prestigious institute in their midst, with very learned gentlemen. I would support the motion.

**The Chair:** We are continuing discussion of Mr Sergio's motion. Mr Shea, did you have a comment?

**Mr Shea:** Maybe we can just request that legal counsel change the wording that's handed out when we go through these things. I share the parliamentary assistant's confusion. Traditions change and we create new traditions. In this case, we're really saying that we recommend that any fees that have currently been paid be returned, and that if there are any costs incurred with printing, that they be waived.

But I want to pick up beyond that and make sure we're very clear in response to a question I raised a week or two ago. I look at the clerk now. The up-set price on that was, according to the clerk, something in the order of about \$400 or \$500. I want to be very clear on that and I want a clear answer for Hansard. Is that still his understanding?

**Clerk of the Committee (Mr Tom Prins):** Yes. It depends on the size of the bill, but this bill is very much the size of the bill we dealt with last week.

**Mr Shea:** In doing that, I have a clear sense then of the kind of money I'm dealing with?

**Clerk of the Committee:** Yes, \$400 or \$500 in addition to the \$150 filing fee.

**Mr Shea:** That's fine. I want to make it very clear I'm not prepared to give blank cheques. I operate a charity too and I'd be very pleased to have a blank cheque. But I understand it, and I'm quite prepared to endorse and support this motion. I would ask that in future we find a way to rephrase these so they give a little more clarity.

**Clerk of the Committee:** I will look into reclarifying that motion. But just to let you know, Legislative counsel didn't draft those. Those have been a historical —

**Mr Shea:** Anything we can do to eliminate the need of a lawyer will always be welcome. Thank you. We have enough clergy here today to take care of the misunderstandings.

**The Chair:** Does that satisfy both your requests?

**Mr Shea:** Absolutely. I'm more than satisfied.

**Mr Cordiano:** I have your blessing, do I?



**Mr Hardeman:** I appreciate the comments from Mr Shea, but I wanted to clarify it was not my confusion, it was my lack of understanding that was in question.

**Mr Shea:** I'm prepared to debate that, Chair.

**The Chair:** We have a motion before us. All in favour? Those opposed? Carried. I declare this order of business closed and I thank the applicants and sponsor.

1030

### JAMAICAN CANADIAN ASSOCIATION ACT, 1997

Consideration of Bill Pr94, An Act respecting The Jamaican Canadian Association.

**The Chair:** Our next order of business: We are considering Bill Pr94. The sponsor is Mario Sergio, MPP for Yorkview. I would ask Mr Sergio for some introductory remarks, and we also wish introductions of the applicants at the witness table.

**Mr Sergio:** Thank you very much, Mr Chair. I am quite pleased to be the sponsor of this bill. I do it for many reasons, of course, not only because I have known the community for many years but a very large part of the Jamaican community resides and does business in my riding as well. I was more particularly pleased when I learned that the Jamaican Canadian Association had acquired a facility in my riding, so I was doubly pleased because of that.

In support of the bill, because I don't want to keep it too long, let me say that since the incorporation of the association they have come a long way as a community, as an organized group, let alone all the work they have done over the years among the general community.

I can attest to the fact that they have been extremely busy and active in working with the seniors in their community, and working especially to alleviate problems for the youth. Last year and the year before I know they had some wonderful programs of exchange between students from here and also from Jamaica. They have been very active in working with the young people in their community, women's issues and problems, sex abuse and whatever have you. So they have taken a very active role in working with their community.

As many other groups have done before, now they are moving ahead even though the travelling, if you will, has been slow, as for many other ethnic groups, but finally they are making excellent inroads. As I said, I'm very pleased that now they have acquired a property in my riding where they are conducting programs to assist the general community on a daily basis. It's wonderful to see that they are continuing this work.

In support of their request, I will be asking the committee to support their request, and I would ask the president, Mr Stewart, to say something on behalf of the bill and the community itself. Also, I have Mr Curling here, who is a pillar in the Jamaican community, not that we need his support, but it's always nice to see him here.

**Mr Herman Stewart:** Good morning. My name is Herman Stewart. I'm the president of the Jamaican Canadian Association. I have with me my colleague, a board member, Vincent Conville. I'm glad I have the opportunity to say a few words on behalf of our bill today.

The Jamaican Canadian Association was established in 1962 by 12 individuals who wanted to do something to commemorate Jamaica's independence on August 6, 1962. Since then, the association has grown to be the largest and most active within the Caribbean and Afro-Canadian community.

We do numerous programs with a full-time staff of 14. We have programs operating from Lawrence Heights, from Jane and Finch, from our head office on Arrow Road and from Parkdale and Scarborough. We have an active membership of about 1,500, and we have a number of standing committees that do the volunteer side of things. We have a very active seniors' group that meets at the centre on Tuesdays and Thursdays from noon until 4. They do numerous activities. That club is constantly expanding, because we have an aging membership. We also do tutorial programs on Saturday mornings for youngsters between the ages of 6 and 12. We do several cultural programs, especially commemorating Black History Month in February.

Our centre is being renovated now and it is hoped that we will be able to expand the number of services and programs we provide for our citizens. During 1996, through the various services and programs, we were able to assist 28,000 people in the GTA. Some of our most popular programs are the Caribbean youth and family services programs. That program assists young people who are in detention centres. We work with them so when they come out they can get back into society. We help them with résumé preparation, we help them with job interviews and we do referrals in terms of job interviews.

We also have a women's program. That's a very successful program. We have clients who come from as far away as Hamilton and Oshawa to attend counselling sessions. That program was recognized recently for its outstanding work.

We are quite pleased with what we are doing on behalf of not only the Jamaican community but the African-Canadian community and the entire community. We see ourselves as an asset. I encourage you to support our bill today.

**The Chair:** Any further comments from the applicants?

**Mr Vincent Conville:** I'd just like to add that we have been a very inclusive organization from our very inception. Although our name is the Jamaican Canadian Association, we have always catered to other groups within the community. I'd also like to point out that Eva's Place in North York is an offshoot of the Jamaican Canadian Association. The John Brooks Community Foundation and Scholarship Fund is also an offshoot of the Jamaican Canadian Association. We have been a very inclusive organization.



We have also worked for over 25 years with the North York Board of Education. Their booster program was originally started by the Jamaican Canadian Association, from which North York was able to take it over and use it in their summer programs. We also have what we call the LEAP program, language enrichment academic program, which was started to assist youth in the Jane-Finch area. This also was incorporated in board policy in North York. We have been very active.

To add a little further, we are a self-help program. Most of the things we have done over the years we do through our own fund-raising, although these days we do get some assistance from private groups. Thank you very much.

**Mr Alvin Curling (Scarborough North):** I'll be very brief. My appreciation of the Jamaican Canadian Association comes from observing and seeing their involvement in community work, working very strongly with governments over the years and organizations, the police, especially helping new immigrants adjust. I find an organization like this extremely important to our society. As you all know, organizations like these do many of the things that government cannot do, and sometimes much more effectively.

I think their proposal today is one that tells you that whatever support can be given to extend that kind of work within that community will not only help government but help people at large. It's an organization I'm extremely proud of. Over the years, with all the difficulties of funding, they've continued to serve the community very well.

I too lend my support very strongly to this organization. Many of our colleagues sitting here are quite familiar with their work, and I know their support will be forthcoming without any difficulty at all.

1040

**The Chair:** Are there any interested parties? I see none. Before we go to questions from the committee, I would ask for comments from the parliamentary assistant.

**Mr Hardeman:** In review of the bill — and the ministry has suggested that the bill meets all the criteria set out for bills of such purpose — there are a couple of items I would like to point out. First of all, the ability to get the tax exempted from the local municipalities exists presently by municipalities giving that back in grants to the organization. As opposed to forgiving the taxes, they could give it back in a grant. In the past, the reason that has not happened a lot is that municipalities would then have to also reimburse the education portion of the tax bill, so none of the taxes were paid. With these bills, this enabled the school boards to also forgive the education portion of the tax bill.

I would point out that with Bill 160, the new Education Act, the ability to forgo those taxes will be the responsibility of the Minister of Education as opposed to the local municipality. When Bill 160 is enacted, the ability to forgo that portion of the taxes will no longer exist at the local level. It would not require this type of legislation to deal with that.

Bill 149, which is the Fair Municipal Finance Act, gives the municipalities the ability, without this type of bill, to give the tax exemption of their local taxes to charitable organizations such as yourself. With that, as we fast approach January 1, 1998, I would point out that the bill will not be as functional as was originally anticipated by the applicants when the bill was introduced. The ability to get all the taxes exempted may no longer exist on January 1. I just want to make sure that we point that out to the applicants, that the benefits may not be as advantageous as was envisioned when the bill was proposed.

Dealing with the local taxes, in Bill 149 they will be able to deal directly with the municipality and ask them to forgo those taxes. That could be done if, as the resolutions that were put forward in support of this bill by the municipality would indicate, they would also be prepared to pass that same resolution and forgive those taxes in the future.

Having said that, the Ministry of Finance has suggested that, pending the review of what we should be doing with the education portion of the taxation, we should not pass a lot more of this type of exemption bill. As the Ministry of Municipal Affairs, we have approved many such bills, and we're not recommending that we not pass this one, but I want to make sure we understand that the issue as it relates to the total tax bill you're referring to in the bill may not be the end result of the application in the bill.

**The Chair:** We now go to questions from the committee.

**Mr Ruprecht:** With respect to the parliamentary assistant's comments, I would like to point out that these are essentially internal government problems that have little to do with the Jamaican Canadian Association.

I have a couple of points to make. One is that I'm still somewhat surprised — I keep repeating this — that the Jamaican Canadian Association is here today to make this kind of deputation. That was my first point. With cutting through red tape and streamlining the process on this type of item, as we've talked about on many occasions, especially myself and Mr Shea, I would have thought that by this time we would have come up with a process that would facilitate these kinds of requests in terms of exemption of taxes.

I would only hope that in the new year this committee sits down and either creates a subcommittee or another structure so that some of these deputants do not have to come from far away, waste their time, and request these kinds of exemptions. The process should have been in place, and I hope it will be done in the future.

My second point is that I'm very familiar with the Jamaican Canadian Association. In fact it was 19 years ago — I was a city councillor at the time — when Rupert James and myself were happy to raise the Jamaican flag at city council. As Alvin will recall, there were thousands of people present not only to celebrate Jamaican Independence Day but to celebrate what Canadians of Jamaican background's contribution has been to this country.

Not only do I wish to congratulate them, but I'd like to point out that it's a worthy organization. I'm delighted that



Mr Sergio has lent his support to this — he has studied this bill carefully — and that Mr Curling is here as well to lend his support. With all that firepower that the Jamaican Canadian Association has been able to muster, we will certainly, on this side of the House, support the exemption of these taxes.

I will later move, at the appropriate time, that the costs be exempted.

**The Chair:** I'll just mention that the meeting of the subcommittee is being slated to discuss options around these kinds of bills, the tax exemption bills and other bills. There is a subcommittee meeting slated for the new year.

**Mr Ruprecht:** Thank you very much.

**The Chair:** Mr Hardeman, do you have a further comment?

**Mr Hardeman:** As Mr Ruprecht mentioned, the issues I spoke to are internal government issues, but I think they are directly related to the comments Mr Ruprecht made. The municipalities, under Bill 149, will have the ability to give back all the charges they charge, so they will no longer need this type of legislation to give tax-exemptions. Where charitable organizations occupy space in other properties that are taxed at the full rate, Bill 149 also allows the opportunity for the municipality to reduce the taxation on those properties to deal with the charity occupant.

As the legislation is implemented, we will see very little need for these types of bills to have to come through

the legislative process, as municipalities will have the ability to deal with them directly.

**The Chair:** Are there any further questions from the committee? Are members of the committee ready to vote? We are voting on Bill Pr94, An Act respecting the Jamaican Canadian Association, sponsored by Mr Sergio, MPP. In keeping with tradition, I'll collapse sections 1 through to 11.

Shall sections 1 through 11 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Thank you.

I will now entertain Mr Ruprecht's motion.

**Mr Ruprecht:** I move that the committee recommend that the fees and the actual cost of printing at all stages be remitted on Bill Pr94, An Act respecting the Jamaican Canadian Association.

**The Chair:** Any discussion on this motion? All in favour of this motion? Those opposed? I declare that motion passed.

I wish to thank the applicants and the sponsor. I declare this order of business closed.

This committee now stands adjourned at the call of the Chair.

*The committee adjourned at 1049.*





## CONTENTS

Wednesday 17 December 1997

<b>Institute for Advanced Judaic Studies Act, 1997, Bill Pr95, <i>Mr Cordiano</i> .....</b>	<b>T-301</b>
Mr Joseph Cordiano	
Mr Ed Wells	
Rabbi Jakob Hirschman	
Rabbi Nathan Hofman	
<b>Jamaican Canadian Association Act, 1997, Bill Pr94, <i>Mr Sergio</i> .....</b>	<b>T-304</b>
Mr Mario Sergio	
Mr Herman Stewart	
Mr Vincent Conville	
Mr Alvin Curling	

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